

The Roman Empire

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T H E
ROMAN EMPIRE
From the M O N A R C H Y
O F
Constantine The Great,
T O T H E
Taking of R O M E by O D O A C E R, and the Ruin
of the E M P I R E in the W E S T.



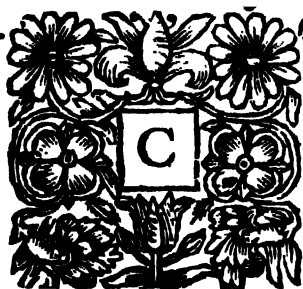
C H A P. I.

The Vigorous Estate or Condition of the Empire, during the Government of Constantine and his Family. From his Monarchy to the Death of Julian; With an Account of the Polity of the Empire.

Sect. I.

From the Monarchy of Constantine to his Death; the space of Thirteen Years and odd Months.

Constantine
now Monarch.



1. Constantine having overthrown and wholly subdued *Licinius*, his Enemy, (both as *Christian* and *Emperour*) obtain'd the Sovereignty of the whole *Roman* World, in the *Eighteenth* year of his Reign, the fourth of the two hundred seventy fifth Olympiad, the thousand seventy seventh of *Rome*, and the twelfth Indiction, *A.D.* Cccxxiii; his two Sons *Crispus* and *Constantine* (*Cæsars*) both of them the third time being *Consuls*.

A.D.

323.

Crispo & Constantino (Cæsares) 3 Cons.

Comes to Thessalonica with his Prisoner *Licinius*,

and makes several good Laws.

Repeals those of *Licinius*.

2. Having Completed his Victory at *Nicomedia*, (the most Eminent City of *Bithynia*, and all those quarters) he there continued near five Months, as well for the re-settlement of his Affairs, as the Love he bore to the Place; and then return'd with *Licinius*, his Prisoner, into *Macedonia*; and came to (a) *Thessalonica*, where he made several Laws, both for the Security of his Estate, and the general Welfare of his Subjects. The Army he obliged, by ordering the Privileges of the (b) *Veterans*, or old Emerit Souldiers, to be Recorded in that they called *Encensum*, or *Census*, after the most durable manner. The burthen, which during the Tyranny of *Licinius*, had lain upon the Inhabitants of *Chalcedon* and *Nicomedia* by unequal Impositions of (c) extraordinary Charges, he took off, by referring things of this nature to the Discretion of the Governour of the Cities. Then did he by another (d) *Edict* repeal all the Laws and Constitutions of *Licinius*, which were contrary to the antient Laws, or his own Decrees, as it was the constant custome of Emperours to reverse all things that had been Enacted by those they called Usurpers or Tyrants, either presently after their Fall, or as soon as a fit opportunity presented it self; and as he formerly had dealt about the Ordinances of *Maxentius*. Now for our Understand-

(a) l. 4. de Nativitatibus vicariis c.

un. de his qui veniam etatis.

(b) l. 1. de Veteranis Cod. Th.

(c) l. 4. de extraordinariis, sive sordidis, Cod. Theod.

(d) l. 1. de iur. iur. c. 1.

(l) Remotis Licinii Tyranni consuetudinibus

l. 1. de iur. iur. c. 1.

l. 5. Tit. 14. l. 1.

Sect. 1. ing what these Illegal Edicts of *Licinius* were, (a) *Eusebius*, the Author of *Constantine's Life*, tells us of three or four several unjust Constitutions made by him. As that none of their Friends or Kindred should relieve such as were Committed to Prison, upon pain of having the like Punishment inflicted upon them. Another whereby he disannull'd the old *Roman Laws* concerning Marriages, in the room whereof he made barbarous and bloody Statutes. A Third, by which he incapacitated in Matters relating to the Dead. Moreover, he laid most grievous Taxes on all his Subjects, ordaining new ways of Oppression, by Surveying of Lands, and Penalties imposed upon the Estates of those who were long before deceased.

A. D.

324.

(a) *Eccles. Hist.*
l. 10.
C. penult. vite
Constantini. l. 1.
C. 47, 48.

Puts him to death.

His Character.

The publick Acts of him and his Judges null'd.

Constantine re-formeth matters in the East.

Restrains Usury.

3. *Licinius*, for the sake of *Constantia* his Wife, was permitted to live a private Life, and for the security thereof, had the Oath of *Constantine* her Brother: but this cannot but be supposed to be conditional; if he received Protection, his quitting all hostile Designs must at least virtually have been included in the Agreement; none being obliged to cherish a Viper in his Bosome, or presumed to bind himself by Oath to Preserve another to Destroy himself. Therefore, when he could not forbear his wonted Practices against the Person and Government of *Constantine*, but, as some Writers affirm, again endeavoured to raise War, and to procure the barbarous Nations to Invade the Empire, having from long Experience of his turbulent Humour and implacable Malice, sufficient reason to despair of his Amendment, he caused him to be put to Death. That this is not incredible, nor any severe Censure upon the memory of *Licinius*, the Character given him by *Aurelius Victor* may persuade the Reader, who calls him *the most Covetous of all Men, a Lecherous Person, Fierce, and very Impatient, and an Enemy to all Learning, which out of his gross Ignorance he termed the Poison and Plague of the Commonwealth, but especially the Prejudice of the Law.* He adds, *That he was a Clown, and by reason of his Clownish Birth and Breeding, a Friend to such; but a most Severe Exactor of Military Discipline, and an Enemy to Eunuchs and Courtiers, whom he called the Moths and Rats of the Palace.* He being gone, *Constantine*, to abolish all he had done, having formerly Repealed his Laws and Constitutions, now by another Edict makes null all the Publick Acts both of him and his Judges. This was no new thing, nor practised only by the *Roman Emperours*; the *Athenians* after the destruction of the thirty Tyrants, adjudged null and void whatsoever had been done and determined under them, in relation either to publick or private Matters. But whereas the nulling of all private and voluntary Contracts, with Legal Proceedings, during Usurpations, must necessarily tend to Confusion and Disorder, by unravelling of all things belonging to Propriety, he represseth such as would thence take occasion to renounce Legally determined, or their own not forced Acts; making a difference between such things as had been so Transacted by the Subject under *Licinius*, (as *Emancipations, Manumissions, Donations, Bargains*, and the like) and other matters tyrannically practised by him or his Judges. Now some have been mistaken in confounding this Edict of *Constantine* with his former, and affirming him, as better advised, to have Mitigated the first by the Second: for the first is only concerning the Constitutions and Laws of *Licinius*, not meddling with the Acts of him or his Judges, or with things freely and voluntarily transacted by the Subject, and here Excepted.

*Tyranni & Judicium ejus Ge-
his infirmis, nemo per calumniam, ve-
id quod sponte
fuit, ex-
nec quod legiti-
time gestum est.*
Dat. Prid. Id.
*Febr. Paulino
& Juliano*
Coss. Cod. Th.
lib. 15. Tit. 14.
l. 2.
*De infirmis
his que sub Ty-
rannis, aut Bar-
baris gesta sunt.*
*Vide Jacobum
Gothofredum in
Legem.*

4. *Constantine*, by the overthrow and Death of *Licinius*, remaining Lord of the East, as well as other parts of the Empire, set himself to Amend the State thereof and Correct the depraved Manners of the People by several Constitutions, as in another place we must largely shew. No practice at this time was more Extravagant and Burthenfom, than that of Usury, which extended, not only to Moneys, but also to Corn, and other Fruits of the Earth, especially in *Palestine*; the Cities of which, and principally *Cæsarea*, abounded with Wheat, Wine and Oyl. By the Law, for Money the hundredth part could only be taken for Interest; yet the Customs of Places bore down the Authority of the Law. And as for Fruits, the Usury of them exceeded the other of Money, which had this Effect upon Covetous and Gripping People, that though they Lent out Money, yet they would make it their bargain to receive the Interest of Fruits, which being unlimited, gave occasion of Intolerable Oppression. Now therefore *Constantine* by an Edict, both settled the old Custom of the hundredth part for Money, and first set bounds to the Interest of Fruits; Ordaining that it should not exceed one half of the Principal. So as if one lent two Bushels of Corn, he should receive back but three; which was afterward altered by *Justinian*, so as this Constitution is not put into his Code, he reducing the Interest of Fruits to that of Money; and though *St. Jerome* utterly condemn'd it, yet in respect of the former usual Extortion, it procured great Ease to the Subject, and was as great a Reformation as could be wrought on a sudden. And

*Centesima usura
fuit que in
nummos cente-
nos singulos
nummos, singu-
lis Mensibus
præstaret. usu-
re quippe olim
ita & apud Ro-
manos mensura
Gothofred. l. 1. f.
de usuris. C. The-
Lib. 2. Tit. 33.
Hæ sunt omnia
usure ille ipse
olias que Ch-
ricis nomina-
tim interdun-
tur hoc ipso anno
325. Conc. Nic.
Can. 17. ut in-
nuit Gothofre-
dus, quem con-
sule in hæc Le-
ges.*

whereas

Sect. 1. whereas great Complaints were made against his *Facourites*, and those that were about him, which kind of Men do often great Mischief, and cause a good Princee (otherwise) to be ill spoken of, and his Government to be traduced by the People; that he might not alwayes be disquieted with Clamours, and to provide against the Ambition and Covetousness of his Courtiers, he Published another Edict this year (the same wherein the Council was held at *Nice*) from *Nicomedia*, whereby he gives leave, nay invites any one, freely and without fear, to come forth and Accuse any of his Friends or Favourites, promising Rewards to such as could make good their Accusations; and concluding his Edict with a most Religious Protestation. Having made this Law at *Nicomedia*, where he remained some time after his coming from *Nice*, he took a Progress into *Thrace*, *Dacia* and *Mysia*, to *Aqua*, or the Waters, whence another Law of his bears Date, concerning the *Annona*, or Provisions for the Army. What Waters these were is not certain, though such a place there was, not far from the City *Naissus* in *Dacia* (where another of his Laws concerning Witnesses bears also date this same year) as appears from *Antonine's Itinerary*; And there were other hot Waters in *Thrace*.

Invites any to
Accuse his
Courtiers.

Makes *Constantine*
his Son
Cæsar.

Restrains
Coyners.

What Cities
had publick
Mints.

5. About this time he Conferred the Dignity of *Cæsar* upon his Son *Constantinus*, and sent him into *Gall*, to defend that Province against the Barbarous Nations. In the beginning of the following year, his Residence was either in *Thrace*, or in *Macedonia*, (at *Heraclea*,) whence he removed Westward to *Sirmium* in *Pannonia*, and by a large Edict to the People of *Rome*, made provision for such as were under Age, against the Frauds and ill Administration of their Guardians, better than was afforded them by former Laws. From *Pannonia* he moved towards *Italy*, and in his way took *Aquileia* and *Milain*, in both which Cities he made Edicts. In the latter he published a Constitution against private Coyners, Confiscating the Estates of such as should procure any Money to be made, but in the publick Mints: in all places Coynage being reckoned amongst Royalties. Now it will not be amiss to let the Reader know what Cities of the Empire were privileged with the use of Mints. In the East were *Antioch*, *Alexandria*, *Cyzicus* in *Bithynia*, and afterward *Constantinople*. In the West, the *Notitia* of the Empire reckons up six several Mints in the time of *Theodosius Junior*, and *Valentinian the Third*; viz. those of *Syria* in *Pannonia*, *Aquilcia*, *Rome*, *Lyons*, *Arles* and *Triers*, every of which had its several Procurator there mentioned. These were the most known and ordinary Places; but that Money was also stamped here at *London*, at *Verulam*, and in other Towns, appears by several Coins yet Extant.

6. Hitherto we hear no ill of *Constantine* in Particulars, and yet he was a Mortal, and being possessed of the highest Power upon Earth, must needs be liable to various Temptations arising from the Grandeur of his Estate. But now we are told of some Acts both Unnatural and Cruel, which supposed must have fallen out about this very time, viz. the putting to death of his Son *Crispus*, and other Relations. We say supposed; for, that he put his Son to death some Authors utterly deny, although, to speak indifferently, they be over-ruled by the Testimony of a far greater number: He that tells the Story first with Circumstance, is indeed a bitter Enemy to *Constantine*, upon the account of Religion, and subjoyns a most lewd Lye to it, making this the occasion of his Conversion to Christianity, as we shall see in a more proper place. He writes, *That coming to Rome, being full of Arrogance, he thought he was to begin his Impiety at his own House: for he put to death his Son Crispus, who was dignified with the Title of Cæsar, because he was suspected to have to do with his Step-mother Fausta, without having any respect to the Law of Nature. And when Helena, the Mother of Constantine, took it exceedingly to heart, and served above measure for the death of the Young Man, He, as to Comfort her Saved one Mischief by another that was greater, causing Fausta to be stifled in a Bath heated on purpose according to the ordinary Custom.* Those that most oppose this Relation are *Sozomen* and *Eusebius*, both Writers of Ecclesiastical History. *Evagrius* Declaims rather than Argues. *Sozomen* urges, that *Crispus* could not be put to Death, because he lived till the twentieth year of his Father's Reign, and in the mean time made many Laws on behalf of Christians and Christianity; as, both the Dates and Names which those Laws do bear, sufficiently evince. This Reason is rejected as very frivolous by some, who, to make way for the Baptism of *Constantine* at this time, would have him Guilty of the Death of his Son, not any other thing; but yet there is more in it than they will own: for *Zosimus* makes the Death of *Crispus* the occasion of *Constantine's* forsaking Paganism, because, forsooth, that could not afford him any Expiation for such Crimes, and of turning to Christianity upon promise of Pardon, which its Principles, upon sincere Repentance, do allow. Now how could the

Constantine
purtech to
Death his Son
Crispus,

and *Fausta* his
own Wife.

Seet. 1. death of *Crispus* give occasion to his Father's Conversion, when by all account of *A. D.* Times, and by the many Laws yet extant, as Learned Men observe, it evidently appears, that long before the twentieth year of the Emperours Reign, wherein, or the year preceding, *Crispus* was Consul, both Father and Son were Christians, and vigorously by their Edicts promoted this Religion? *Constantine's* Conversion was long before, and it's certain, *Crispus* was alive in or about his twentieth year. 325.

7. That which *Zosimus* therefore makes the Effect of the death of *Crispus*, hence appearing absurd and ridiculous; the thing it self might well be thought also forged, if there were not other Testimonies which affirm the Fact, though they are utterly silent as to any such thing produced by it.

Ammianus Marcellinus, who lived in, *Li. 4. ad Istriam duxit prope oppidum Polam, ubi quondam peremptum Constantini Filium accepimus Crispum. Orosius. 4. 20. 11.* or about these times, mentions his putting to death, and also the Place, which was *Pola*, a Town of *Istria*. And though the History of *Eusebius* be silent as to this matter, which *Evagrius* urgeth as an Argument against *Zosimus*, yet to this it is answered, that into his *Chronicon* it is inserted, if not by himself, by *St. Hierome*, or some who published it near these Times. And that not only oth. : Heathen Writers, but Christians also, who for the contrary reason bore as much respect to the memory of *Constantine*, as *Zosimus* did Malice, mention it as a Matter they sufficiently believed. It must not be denied, but that at this time *Constantine* was taxed for some Severities, and particularly twitted for Cruelty, by a Libel fixed on the

Palace-Gate, by procurement of *Ablavius*, who was afterward Consul, and at present the *Præfæctus Prætorio*. Therefore, granting that *Crispus* was put to death, the Cause is to be inquired after; for, Punishment, except either there be no Cause, or a slender one, is not to be esteemed Cruelty. *Zosimus* tells us, he was suspected to have to do with his Step-mother *Fausta*, thereby possibly, both casting upon him some Imputation of Incest, and making out the Cruelty of his Father, in that it was but a Suspicion: for, had it been true and evident, such a Provocation as that of having one's Bed defiled by one's own Son, might have enraged a Man of far more Phlegmatick Constitution than was *Constantine*. That his Death hapned by occasion of *Fausta*, is affirmed by all; and the general Opinion is, that it was procured by her seeking. But this was not for forcing her, or having to do with her; but as we in charity believe, because he refused to do what both Religion, and his Duty to his Father forbad, but she most ardently required. When afterward *Julian* objected this Death of *Crispus*, and of other Relations against *Constantine* to *Artemius* the *Præfæctus Augustalis*, and *Martyr*, he is said to have excused him in this manner: "As for his Wife *Fausta*, he justly put her to death, for that

"she imitated the antient *Phædra*, in calumniating his Son *Crispus* for being in love with her, and offering her violence, as she of old did *Hippolitus* the son of *Thesus*. First, he punished his Son as one who had raged with Lust towards his Mother, and he did it like a Husband. Afterwards, when her deceit was discovered, he caused to be executed upon her a Sentence the most just of all others. To the same purpose, as is farther urged, writes *Zonaras*, and other later Historians, though *Gregory of Tours*, the Historian of the *Francks*, will have them both Executed as Traitors: Very probably, it is conjectured, that *Fausta* procured the Prince to be put to Death, to make way for the Preferment of her own Issue; that several Courtiers and some Relations joyned with her in practising thus upon the Credulity of the Emperour, and that he finding how he had been abused, at length punished both her and them. For *Entropius* writes, that very many of his Friends he put to death, amongst whom was young *Licinius*, his Nephew by his Sister; although it seemeth also, that the Law we lately mentioned, whereby he invites all men to Accuse and Convict any of his Friends, or those about him, is hither to be referred; and that there was some great Miscarriage among the Courtiers, some Notable thing which he suspected, and endeavoured to discover.

8. From *Aquileia* (not far distant from *Pola*, where we hear *Crispus* was put to death, saith *Ammianus*) and *Milain*, *Constantine* went to *Rome*, and there continued nigh three Months, viz. *July*, *August*, and *September*. During his abode in the City, he celebrated his *Vicennalia*; or Solemn Feasts and Pastimes for joy he was arrived at the twentieth year of his Reign, and which he had at the beginning of the year celebrated at *Nicomedia*, with great Magnificence. But if we may believe *Zosimus*, he derided the Procession of the *Equites* or Knights, which was wont to be made up to the Capitol, at the time of Electing or Approving them, which procured him the hatred and Curses of the *Roman* People: and probable enough it is, that there arising Discontents between him and them upon the account of Religion, and his endeavouring to exterminate Paganism, thereupon he took a Resolution to fix his Residence at some other convenient place of the Empire. And where-

and why.

Goeth to Rome.

There celebrateth his *Vicennalia*, and disgulseth the Citizens.]

Chron. I. c. 21.

Goethof. ad.

Sect. I.

as *Licinius*, in his time had subtilly changed several matters in the City, so as to oppose the growth of Christianity; now *Constantine*, to hinder the progress of Paganism, (as we may easily guess on both sides without presumption) made also bold to repeal them. The Discontent about the Procession hapned, as *Gothofred* idem.

A.D.

325.

Repealeth the Laws of *Licinius*.

gathers, about the *Ides of July*; and about the same time he published two Laws for nulling what Illegal things had been ordained by *Licinius*, and regulated what he had disordered concerning both *Senators* and *Equites*, directing one to the Senate and *Præfēt* of the City, who was Chief of *Senators*, and the other to the *Præfētus Vigilum*, who was Principal of the *Equites*; so that this latter Law seems to be designed against the Procession, which on the *Ides* was to follow. By the other Law, (both of them seem to the Commentator to have made up one and the same Edict) it appears that *Licinius* had debased *Senators*, and forced them down to the Employment of *Navicularii*. These *Navicularii* were a Body of Sea-faring men, ordained for Transportation of Corn and publick Provisions in several Quarters of the Empire, being a Set Number, and that at their own Expence, succeeding by turns in the Charge and Burthen; their Sons and Heirs were liable to the Burthen, and if any number of the Body fail'd, a supply was made by the *Præfētus Prætorio* usually, and few were exempted or privileged, not *Jews*, if they had sufficient Estates. Such as they called *Curiales*, or bore Office in Cities, were liable, but not *Senators* ordinarily; yet such as possessed their Lands or Estates, were liable according to what they possessed. To this Function they were alwayes obnoxious, so that scarcely could they be Excused by any greater Honour obtain'd. They were constrain'd to build Ships and Vessels of certain burthen; yet so as the Countrey supply'd them with Materials. As their Charge was great, so had they very great Privileges conferred on them by *Constantine* (who this very year, for the better supply of *Rome*, encouraged them) and most of his Successors, till after *Theodosius* the youngest, in whose Code sixteen Laws are Extant concerning their Immunities; and by various Constitutions on the other side, Provision was made against their Frauds and Negligence, as we shall largely find.

lib. 3. & 4. de infirmis his que sub Tyrannis &c.

Abi Gothofred.

Dicuntur etiam Navarchi, Nautici, Nautici, Profectores.

Vide P. 1. tit. 10.

The *Navicularii* who.

9. Such *Senators* as had been by *Licinius* debased to this Employment, *Constantine* (upon their Petition, and in Conformity to what he granted also to Christians, whom *Licinius* had burthened by other publick Charges) leaves to the Senate it self to be considered and restored, if their Birth, Manners and Estates were Suitable, and such as they should pitch on, were by the *Præfēt* of the City to be presented to him for his Confirmation, it being the *Præfēt's* Duty of course to give in the Names of all New, or Exempt *Senators*, to the Prince, and that every three Months. But *Constantine*, having staid at *Rome* the time lately mentioned, took his last Farewel of it, and removed at the latter end of *September*, by the way of *Spalatum* and *Milain* to *Sirmium* in *Pannonia*, in all which Places he made Edicts, which for urgent reasons respecting Religion, we must largely insist on in another place, and therefore in this Volume must omit them. From *Pannonia* he took his way into *Macedonia*, and there made some stay at *Thessalonica*, the beginning of the following year, which was partly the twenty sixth and part of the twenty seventh of his Reign.

Chron. Legum.

A. D. 327.

Constantine removeth to *Thessalonica*.

Cccxxvii Constantine Caesar the fifth time, and *Maximus* being *Consuls*. From *Macedonia* he went into *Dacia*, and for some time resided at *Serdica*, whither for several years following he often had recourse, having at this time War with the *Goths* and *Taisali*, a People inhabited beyond the Rivers *Oesce* and *Danow*, the later of which he often passed, and for his Ease and better Expedition, caused a Stone-bridge to be made over it. *Zosimus* insinuates, according to his Custom of Defaming him, as if lying carelessly and negligent, indulging his Voluptuous Humour, he gave Encouragement to the *Taisali*, a *Scythian* Nation, to Invade the Empire; and that he would, or durst not fight, but lost the greater part of his Army, and was forced by flight to provide for the safety of his Person. Now that this is a great Calumny, these things must make us believe. For his Sloth and Ease, we may be satisfied to the contrary by the Laws he made at this time, the Dates whereof, and several Places where they were made, plainly shew, that for these two or three years he rested very little, but was ever moving to and fro upon the Borders, and was much at *Serdica*. For his Success, other Writers affirm, that he had the better of the *Scythians*, and not on'y freed the *Roman Empire* from being Tributary to them, but forced them to submit to that Burthen, which none had done before him. For confirmation of this, there is a Coyn still extant, stamped in memory of his Victory over the *Goths*,

Chron. Alexand. apud Chron. Legum.

Makes a Stone Bridge over *Danubius*.

Vanquisheth the *Scythians*.

SECT. I. *Goths*, which the Reader may see Exemplified in *Baronius* his Annals. But of this A. D. more hereafter.

New Rome, or
Constantinople
founded.

Upon what In-
ducements.

10. The only truth in *Zosimus* his Relation is the Circumstance of time that this War hapned, when New Rome, or Constantinople was founded. For now it was that a second Head began to arise out of the Neck of the Roman Eagle. We can safely believe that Writer as to this Matter, that he might take offence at the Senate and People of Rome for their being averse to his Religion, and that this was a Motive to his Resolution of chusing out some other Place wherein to fix his Imperial Seat. But this might not be the only Inducement. Another urgent Reason may be fetch'd from the present State and Condition of the Empire, the great Danger that now threatned it, were the Inroads made by the Barbarous Nations inhabiting toward the North-Eastern parts of Europe, towards Macedonia and Thrace. Hence it was, that those dreadful, those ravenous Swarms of Locusts took their flight, which at length over-power'd the Eagle, spoiled him of some of his best Western Plumes, and nested themselves in his very Throne. The Provinces lying about Italy and Rome, were at present in Repose, and what Mischief hapned afterwards came most out of the Quarters but now mentioned. This made the Prince his Presence very necessary in the North-Eastern Parts, it not being safe, either for the Empire or himself, constantly to Manage Wars at a great distance by Lieutenants, who having got the Command of Armies, commonly usurped. Constantine seems to have born greatest respect to Nicomedia, whither often he repair'd, and there drew his very last breath. But though being a City of Bythynia, which lies over against Thrace, it was not far distant from those Quarters; yet being situate in Asia, and over the Sea, a more convenient Place there might be found, the danger lying chiefly on this side the Water. Therefore having refused Nicomedia, for the same reason he might reject the Place which *Zosimus* tells us he first pitch'd upon, betwixt Troas and old Ilium, though already part of the Wall was built, which was still to be seen in this Writer's dayes by those that sail'd toward the Hellespont. *Sozomen* also writes, that in his time the Gates were to be seen on an Hill not far from the Hellespont, and a little above the Tomb of Ajax, where the Greeks were reported to have had their Camp at the Siege of Troy. This might have been one reason for fixing his Seat in Thrace. To which may be added, which is also thought, that the Eastern Provinces of Asia being far more distant from Rome, and lyable to the frequent IncurSIONS of the Persians and others, it was the more requisite, that for their Supply and Safeguard the Emperour should have his Residence nearer hand; and in respect of the Western and the Eastern Borders toward the middle of the Empire.

At what place.

The State of
Byzantium.

11. *Sozomen* tells us, that while he was about building in the Place near to Ilium, God appeared to him by night, and Commanding him to seek out some other Seat, put him in mind of Byzantium, to fill it with Inhabitants, and call it by his own Name. *Zonaras* writes, that he first had thoughts to build in Serdica, then in Singum, a Promontory of Troas, where he was reported to have laid the Foundation, and after that began a Work at Chalcedon; but Eagles were said to have taken up the Ropes or Lines used by the Workmen, and carried them over the Streights to Byzantium; which being often done, he concluding it was not without a Providence, went thither, viewed, and approved of the Place. Byzantium was formerly a very eminent City, of great Strength, very well Inhabited, and rendred famous by many Hostile Actions, related by us in the first Tome of this Work. But nothing more Memorable hapned concerning it, than that siding with Niger, it sustain'd a Siege from the Emperour Severus for three years together, who Disfranchiz'd it, as Vespasian formerly had done, made it subject to Heracles, and pull'd down the Walls; but after, He, or his Son being reconcil'd, not only restor'd it to its former Privileges, but by Magnificent Works greatly Adorned it, and called it by the Name of Antonina (after the Son) which Name it retained no longer than that Family held the Sovereignty, but received its former of Byzantium. When Gallienus was Emperour, it ran a more dangerous Risque than ever, being made so desolate by his Army, that scarcely any of the Antient Inhabitants remained; yet by the same Emperour it revived, and siding with Licinius in the late Civil War, was grown to such Strength, that it could not be Conquered, till after his Overthrow it yielded of its own accord. It was very large, as *Zosimus* describes it, and fenced with seven Towers, besides most strong Walls; but above all things, for its Situation to be commended: for it stood upon an Isthmus, or neck of Land, formed by that they called Ceras or the Horn, and the

330.

(2) Ad an.
330. num. 4.

Lib. 2. l. 2.

Tom. 3. in Con-
stantino Mag-
no.

Vide Excerpta
Dionis in Seve-
ro & Zonar.

Sect. 1. the *Propontis*, a Place so Convenient, as well as Pleasant, that without leave from A.D. 328. it obtain'd, none could well pass into *Europe*, or *Asia*, it being as it were the Bridge and the Haven of the two Worlds.

The time of
Founding
Constantinople.

12. *Constantine*, satisfied in his Choice, for these Reasons, gave order for the New Work, to enlarge and make of it a New City, the Foundations whereof were laid on the twenty sixth of *November*, in the Consulship of *Januarinus* and *Justus*, in the year of our Lord Cccxxviii; and in the Consulship of *Gallicanus* and *Symmachus*, on the eleventh of *May*, in the third Indiction, A. D. Cccxxx, being the twenty fifth year of his Reign, it was Dedicated, and called by the Name of *New Rome*, and after him, *Constantinople*. And that it might not bear the empty Name of *Rome*, he provided both by the Number and Lustre of the Buildings, and by Imperial Privileges Conferred upon it. As for the former, *Zosimus* gives us this Account; "That in the Place where formerly was the Gate of the Old City, he

Vide Jacob.
Gothofred Chron.
nicon Histori-
con in l. l.
An. 328. &
330.

The Buildings

Erected a *Forum* of a round Figure, which he inclosed with large *Porticus's* or "*Galleries* and raised two mighty *Arches* each over against the other of *Proconnessian* Marble, through which a Passage lay into the *Porticus* of *Severus*, and out of the old Town: and to make the Place far larger than it was before, he drew a Wall fifteen furlongs beyond the former, which took in the whole *Isthmus* from Sea to Sea. Having thus enlarged it he built a *Palace* not much inferiour to that at *Rome*, as also a *Cirque* with all Elegancy imaginable, part of which he made of the Temple of *Castor* and *Pollux*, and he reckons up other Places wherein he caused to be set the Statues of the *Heathen* Gods (which the Author of his Life tells us, was out of Derision) and he adds that he built Houses for certain Senators which followed him from *Rome*. To speak more Compendiously, and yet more to the Purpose than *Zosimus*, he divided his new City into fourteen Regions, he built a *Capitol*, fixed a golden *Miliarium* or a Mark in the middle, whence all Miles were to be measured and counted. He made a *Circus Maximus*, an *Amphitheatre*, several *Forums*, *Porticus's* and other publick Works, and adorned the City with so many *Columns*, *Pyramids*, and things of Rarity and Antiquity, that indeed as *St. Hierome* observed as well as others, he spoiled all other Places, especially *Rome*, of their Ornaments to ennoble this; besides the many Churches, which upon a Religious account he caused to be built, which added much to the Lustre of the City. Above other Curiosities a Column of *Porphyry* he brought from *Rome* is most valued, which he caused to be erected in the *Forum*, with an admirable Statue of Brass upon it; that of *Apollo* as was reported, and first fetcht from *Ilium*; but he Commanded his own Name to be put upon it, and it stood in that posture till the days of *Alexius Comnenus*, in whose Reign it was blown down, and Killed many Persons that were under it. Hither he is also reported to have brought the *Palladium* from *Troy*, and many more Rarities which the Reader, if he please, may find in the Book which *Codinus* hath written concerning the Originals of *Constantinople*. In conclusion as to this Point *Zosimus* further tells us, "That He so happily enlarged it, even to the extent of the greatest City, that the succeeding Princes here fixed their Abode, and hither drew a greater multitude of Men than was necessary, which flocked to it, either as Souldiers, or Merchants, or for some other Course of Employment. In so much that they enlarged its Bounds, and compassed it with far larger Walls than *Constantine* had done before them, and suffered the Buildings to be so many and so thick, that the Inhabitants whether in or out of doores were straitned by reason of the vast number of Men, and other Animals were perpetually in danger, and no small Portion of the adjoining Sea became joyned to the Land by Buildings raised upon Piles, which of themselves were sufficient to make up a large City.

Lib. 3. c. 57.

13. Thus might this City be called *New Rome* in reference to the Buildings and Ornaments, wherein it fully resembled the old; but these were but as the Carcass, which without great Privileges and Encouragements could not long subsist. Power and Authority, Sovereignty and Dominion must give Imperial Life unto it. As to this a very Learned Man observes, that at its very Dedication it was made partaker of Empire, and Associate with the other; yet is perswaded that at the first it was not adorned with all the Privileges of old *Rome*, because by a Constitution of *Valens* (not *Valentinian* and *Valens*, as he and others mistake) long after, the *Jus Italicum* or Privilege of *Italy* was restored to it. Now if it had been before this possessed of all Imperial Authority; what could this *Jus Italicum* have signified? what needed it a Pittance of Immunity which was already seized of all Rights of Majesty? Therefore he would fetch the Rise of its Grandeur from a Law of *Theodosius* the First, confirmed afterward by *Honorius* and *Theodosius* the Second. Yet is there

Beza's P.
Ezechiel Dialecti-
ca, l.

De Jure Itali-
e, c. 1. l. 1.
De Jure Consti-
tutionis, l. 1. c. 13.

Whether at
first it was A-
dorned with
all the Privi-
leges of old
Rome.

Sect. I. no such Law of *Theodosius* the Elder extant; he guesses only there was, because that *Sozomen* plainly affirms, that at the time of the first Council of *Constantinople*, which was in the very days of *Theodosius* the First, *this City had not only obtained the Name of New Rome, and in like manner had a Senate, together with the same Ranks or Orders of Persons and Magistrates; but used the same Ensigns or Badges of Authority as the other Rome did, and in both, the Privileges and Honours fully agreed.* Now from *Themistius*, it is Evident, that *Constantinople* owed much to *Theodosius* the Elder; nay he makes it a Question, whether not as much as to *Constantine* himself. But as for what *Themistius* speaks of *Theodosius*, he speaks in way of Panegyrick, and it relates to the Buildings of the City. All others generally use such Expressions as ascribe the Rights and Privileges to *Constantine* as the Author, who having given Original and Name to the City, must have been thought to have had as much kindness for it as any other could. Therefore *Sozomen* (that we may Interpret one place of that Writer by another) having told us how he had beautified it by public Buildings, adds, that he called it *New Rome*, and (which Explains the other) *Queen or Mistress of all Roman Subjects Inhabiting in the North, South, the Sun-rising and the Mediterranean Sea, from the City's standing upon Ister, and Epidamnus with others, seated upon the Ionian Bay, as far as Cyrene, and that part of Libya adjoining to the Place called Borium.* He appointed (so he proceeds) a great Council, which they call a Senate, and assigned to the Senators the same Rank, Honours and Festivals as belonged to the ancient Romans. In conclusion he endeavoured to make this City called after himself, in all things equal to Rome in Italy, neither did his Success fail him, it Increasing so much, as by Consent of all Men it surpassed Rome, both in the multitude of its Inhabitants, and in Riches. To this Equality so many Authors bear Witness, that it would be tedious to produce their Testimonies, so that when others write he made *Constantinople* equal to Rome in Honour, it was not in empty Honour and Fame, and it was not to no purpose that he enacted a Law whereby he gave it the Name of *New Rome*, and as *Socrates* tells us caused it to be Engraven in a Pillar of Stone placed at the *Prætorium* near to his own Statue on Horseback.

14. As for the Law of *Valens* concerning the *Jus Italicum*, it gives no new Privilege to the City, but restores what it formerly had enjoyed, and was, it seems, taken away, as by the words of it expressly appears. This *Jus*, Privilege or Immunity of *Italy* consisted in two things especially: viz. a peculiar, easy Course of transacting business relating to Law Matters, as in Alienations, Mancipations, Usucapio and the like, and in Freedom from some Tributes, which extended both to the Persons, and the Soil or Ground, granted long ago to Rome and Italy by a Law preferred by *Metellus Nepos*, the *Prætor*. Amongst the other Privileges of Old Rome this had been Conferred on *Constantinople* by *Constantine*, and taken away lately by *Procopius* the Tyrant, or Usurper, who as *Themistius* testifies harassed, during his Tyranny there, both the Senate and People with Tributes and Exactions, and therefore *Valens* by this Law puts it but into the State it formerly was in, renewed but its Privilege, and restores one of the Flowers of its Imperial Crown; which that it might be faster set, and hold for the time to come, as *Constantine* caused the Law of Universal Privilege to be Engraven in a Stone-Pillar, he ordaines, that this his Law of Restitution, not only be Registered amongst the Publick Acts, but cut also in Brazen Tables with all due Solemnity. This would content the minds of the Citizens, especially those of the inferior sort, who would be more sensible of the Violation of their Immunity from Taxes than any other, who would little care for the Grandeur of the City in point of Majesty and Authority, if they were forced to empty their Purses, and were burthened with Contributions. And this Burthen could not but be more uneasy to them, because unusual; and especially for that the Multitude had been drawn to Inhabit this New City, not only by Freedom from Taxes, but by the great Munificence of the Founder, whose Design it was, that they should, not only save their own Money, but receive part of their Maintenance at his Expence. For in the Second Year after the Dedication of the City, for the Encouragement of Builders and Inhabitants, he distributed Bread amongst them of free Gift, amounting to forty thousand measures of Corn daily, which was brought out of *Egypt*, and the Allowance was not only continued during his Time, but long after his Death, and was increased by some of his Successors. Besides this way of Encouragement he gave great Sums of Money to such as built to defray their Charges, and to his new Citizens great Interest in his Demesne-Lands lying in the East, in the Dioceses of *Asia* and *Pontus*; so that none but such could hold or Alienate the said Lands; and this he granted by

Distributes
amongst his
Citizens great
quantity of
Bread.

A. D.

330.

Lib. 7. C. 9.
ἡ δὲ γὰρ ἡ μὲν
ὅτι εἶχε τὰς
τὴν τὴν πρὸς
ἡγορίαν ἢ πρὸς
αὐτῶν.

Lib. 2. C. 2.

καὶ βασιλίδος
κατ' ἐξουσίαν

ἐφ' ἑμῶν μὲν
ζῶντα συννομο-
λογεῖται.

Lib. 1. C. 12.

italici Juris
auxilium ar-
bitra equitatem
reponamus.
Vid. Gotho-
fred in Leg.

Dio. lib. 37.

Concessi igitur
gratia beneficiis
publicis Actibus
intinctur, et
incisa Tabulis
debita Solenni-
tate permaneat.

Chron. A-
lexand.

Zosimus lib. 2.
ἐξένομε τῶν
Βυζαντινῶν δὲ
μὴ σίτησιν
ἀποδοῦναι ἢ
ἀλλ' ὅτι τὰς δέ-
μεναι ἔχουσιν.

Vide Cod. Th.

lib. 14. Tit. 16.

lib. 2. C. Tit.

17. L. L. Par.

as. Et agris

lib. 3. C. 41. No.

vel. Theodosii

Tit. 12. l. 1.

Sect. I. by a Law, which *Theodosius* afterward repealed: the Design of *Constantine*, as he saith, being already accomplished as to the Building of the City, and the Publick Revenue being much lessened by that and other Practices, which he also thereby redresseth.

A. D.

330.

Opens the Bath of *Leucippus*.

Encourages Physicians and Professors.

15. But to provide for the Pleasure and Convenience of the Inhabitants, as well as their Profit, in the same Month wherein the City was Dedicated, he opened the Bath of *Leucippus*, adjoining to the *Cirque* and the *Palace*, made long before by the Emperour *Severus*; a Great and most Magnificent Work. For the better serving of this Bath and other parts of the City with Water: the fourth day after the Dedication he published an Edict, for the cleansing of the *Aqueducts*, which Burthen he imposeth upon those through whose Grounds they pass; requiring that no Trees grow within fifteen Foot of them, lest they should Mine the Works; and for this in the way of Recompence he grants Immunity from extraordinary Burthens, confiscating their Lands in case of Negligence. Having thus consulted for the Profit and Pleasure of his new Citizens, he could not be wanting in what tended to the Instruction and Ornament of their Minds; but for this Purpose, as also to fill the Place by a greater concourse of People, he provided for the publick Profession of Learning in the City. Three Years after the Dedication, by an Edict directed to the People, and bearing Date from *Constantinople*, he confirms all the Privileges granted by his Predecessors to Physicians and Professors, and frees both them, their Wives, and Children, from all Employment and publick Service: ordaining that they neither be compelled to serve as Souldiers, nor to Quarter any whatsoever, or give Entertainment without their free Consent; giving this for a Reason, that they may the better instruct many in the Liberal Studies, and their several Arts. In like manner did *Julius Caesar*, that he might draw People to *Rome*, then much emptied, make all that professed Physick, or the Liberal Arts, free of the City. So did *Augustus*, as *Dion Cassius* witnesseth, Grant Immunity from Employments to Physicians. But he that first provided for the Privilege and Immunity of Professors, was *Vespasian*, the same who first allowed Salaries to such as taught Rhetorick, out of the Publick Treasury; which Grace of his was afterward Confirmed by *Hadrian* at the beginning of his Reign, as also by *Antoninus Pius*, *Severus*, and *Antoninus*, *Philip*, *Dioclesian* and *Maximilian*, all who were favourable to them, as were the Lawyers, who wrote much in their behalf. But all this hitherto done, extended only to their Persons, not to their Patrimony, their Estates and Families, the Immunity of which was reserved to *Constantine*, to be by him bestowed.

Chron. Alexand.

Cod. Theod. 15. Tit. 2. Cod. Justin. lib. 1. eod. Tit.

beneficia Divorum retro Principum confirmantes, Medicos & Professores literarum, ex omni ab omni functione, et ab omnibus muneribus publicis vacare precipimus, nec ad militiam comprehendere, neque hospites recipere, nec ullo fungi munere, quo facilius Liberalibus studiis & memoratis Artibus multos instituant. Cod. Theod. Lib. 13. Tit. 3. l. 3. ex qua Lege pars Legis 6. Cod. Justiniani. eodem Tit. de sumpta est. Vide Gothofred. in Leg. l. 1. hujus Tituli.

16. For, before this Edict (the occasion of our present Discourse) he had Published two several Constitutions for the Encouragement of Physicians, Grammarians, and other Professors of Learning, giving in the first, not only Immunity to their Persons, but to their Estates, securing them from violent Arrests and Injuries, with a great Penalty to those that should molest them, whether Bond or Free. Their Salaries due from the Cities he commands to be paid, and as for such Offices as were counted Dignities, he permits them either to accept or refuse them, as they should see occasion; however discharging them from common Offices and ordinary Services; because their Attendance upon their Patients and Scholars might require their whole time, he would not have them forced from their Employments: and yet lest it should be imagined in the least, that they were barred from Honours, or Honourable Offices, it's left free for them to take or leave them, as they find convenient. Therefore they might be, if they pleased, in the Cities where they lived *Duumviri*, *Defensores*, *Gymnastarchae*, *Aediles*, *Priests*, *Flamines* and *Legati*, which were both Personal Employments and Honours; and if they pleased they might refuse them, as *Phavorinus* did that of Priest, under *Adrian*, appealing to the Laws made in his behalf as a Philosopher. By his second Constitution he discharges the *Archiatres* & *Ex Archiatris*, or the Physicians of the Court and of the City, of all Duties and Employments belonging to such Ranks and Orders as they might chance to be of; or the payment of Gold or Silver, or the furnishing of Horses; and extends the Privilege unto their Sons. "All those Immunities and Privileges he Confirms by this Edict made in favour of his new City, adding two more concerning the *Militia*, and Quartering of Souldiers. And now after four or five years, by reason of these Encouragements, so great Confluence was made to *Constantinople*, that there was want both of Architects for Building Houses and Churches, and of Provisions; so that the Founder was obliged by new Laws in both respects to provide for the Multitude. He directs an Edict to *Felix*, the *Præfectus Prætorio* of *Italy*, wherein after Signification, that there was need of very many

L. 2. hujus Tituli.

care for
Architects.

ny Architects, he orders him to draw those in his Provinces of *Africa* to undertake that Study, who were about eighteen years of Age, and had some taste of the Liberal Arts; for the Encouragement of whom, he grants Immunity from ordinary Burthens and Employments, both to them and their Parents, and affirms, he had appointed competent Salaries to such as should instruct them.

A. D. 330.
Architectis
quamplym
opus est, sed qui
non sunt, Suel
mitas tua in
Provinciis A
fricane, &c.
Coa. Th. lib. 23.
Tit. 4. l. 1. A
best hac Lex d
Cod. Just. va
lut xara rōy
naqōy d
naia obseru
Gothofr. quē
Consule.
L. 6. de Navic
laris Cod. Th.
Lib. 13. Tit. 5
abst hac Lex
Cod. Justin.
Lib. 7. Cod. Tit
Pro Commodi
tate urbis
quam eterno
nunc jubente
Deo donavimus
hac urbis Pri
vilegia credidi
mus deferenda
&c.

And increases
the Privileges
of the Navicu
laris.

17. One great Advantage this City received by its Situation; that as by Land it stood very well for Provisions, so by Sea might be imported whatever the World could afford, both for Pleasure and Convenience. Now all things of this Nature being conveyed by the *Navicularii*, who (as we said) were a Corporation: By one Edict he redressed such Disorders among them as were Observed to hinder the vigorous Prosecution of their Work, the greatest Burthen often lying upon those who were the least able to bear it, and others avoiding their Proportions, how equal soever. This was published at *Carthage* on the seventh of September; and at the beginning of December following, we find another Constitution directed to the *Navicularii* of the *East*, wherein he tells them, "That for the Commodity of this City, to which by God's Command he had given an Everlasting Name, he thought fit to bestow upon them the following Privileges: As that all *Navicularii* should be free from Civil Burthens, Offices and Services: That they should not be bound to undertake any Honourable Employment in Cities to their Detriment, nor be Compelled to be Tutors or Guardians. That they should not be bound by the Laws *Julia* and *Papia*, which allowed to Husbands and Wives but ten parts in certain Cases, though left them by the Testaments of their Wives or Husbands; so that they might leave their whole Estates to one another, as they desired; nor by the Rescript of the Prince himself, be forced to appear before any extraordinary Judge; but in Contests about Inheritances, or any other Civil Matter be convened in that Court, in the Jurisdiction of which they then abode. That as the Custom was to the Fleet of *Alexandria*, four Quarts in a hundred should be allowed them toward the repairing the loss or waste which must necessarily be made in the Transportation of Corn: and that for every thousand Measures, they should receive for Freight one *Solidus*; that so by these Immunities and Rewards, being encouraged, and scarcely being at any Expence themselves, they might lawfully go about their business. By this Constitution he established a new Body or Society of *Navicularii*, for the Benefit and Advantage of *Constantinople*, in the *East*; and gives them as great Privileges, nay in some respects greater than what belonged to those of *Africa* and *Alexandria*, who being formerly allotted to the Service of *Rome* only, now were so divided by him, that (regularly) the Fleet of *Africa* was left to its former Service; but that of *Alexandria* appointed to the Supply of *Constantinople*. But thus much concerning the Building and Peopling of this City from most Authentick Writings, not to mention other idle Reports: and we shall dismiss the History of its Founding with this little Account further; that *Valens* a great Astronomer of that Time, casting as it were its Nativity, upon Consideration of the Scheme, gave out, that its Empire would continue six hundred ninety six years. Had he said one thousand one hundred twenty two, some observe he had guessed nearer to Truth. And yet though its present Condition as to Religion may seem to have abolished the Foundation and Name (it being at first Designed and Dedicated in a manner to Christianity) yet having set up upon a new, though Apostate Account, it seems yet after two hundred and twenty more very vigorous, and so vivacious, that whoever (of what Religion or Nation soever) shall be Lord of those *European* and *Asian* Provinces, it promises to it self, from its Situation, a Fortune little Inferiour to what formerly it did, and at present doth enjoy. So that howsoever *Valens* Calculated, it was Founded under a wonderful Lucky Planet.

Cedrenus Zonar
as in Constan
tinop.

Valens his
Prognostica
on of the Du
ration of Con
stantinople.

18. *Constantine* after the Founding of his new City, either out of Fondness to it (as Parents are wont to be indulgent to their Young and Tender Offsprings) or to encourage and further the Buildings by his Presence, was much there, as appears by the Dates of his Edicts, and now, as habituated to be kind to all his Subjects, from the frequent Acts of Indulgence to his new Citizens, in the year following, in the Dedication he publisheth a large Edict to all the Provincials through the *East*, bearing Date from this City, concerning the Order and Inviolability of Judicature, against the Corruption of Judges and Inferiour Officers, and the Knowledge of Private Persons in Possession; of which there are six parts at least, as now they are divided in our Law-Books. For these two or three years he had been disintangled from Wars, and so more at leisure to prosecute his other Designs; but now the next that follows, we find him Engaged by the *Sarmatians*, in War with the

ut L. 2. Cod.
Just. ubi in rem
actio. L. 3.
finium regen
dorum. l. unde
Litigiosis l. l.
16. 17. de ap
pellationibus.
Et l. 1. de his
qui per metum
Judicis. Et vi
de Gothofred.
in l. l. Hieron.
in Chronic.
Consularia Da
ciana.

Constantine
Publisheth an
Edict con
cerning Judi
cature.

Sect. 1. the *Goths*, which was managed by *Constantine Caesar* his Son, who obtained a Victory over them in the Territories of the *Sarmatae*, on the twentieth of *April* in the Consulship of *Pacatianus* and *Hilarius* *A. D.* cccxxxii. Though the Son had the Honour to have the name of General, and the Repute of a Conquerour; yet we find that the Father was not far off: for by the Date of another Edict this Month, it appears he was at *Martianopolis*, a City of *Myfia* in the Confines of the *Goths* and *Sarmatians*. And whether he had respect therein to this Expedition, in that Edict he gives Encouragement to Souldiers. For whereas Formerly a Woman that was Contracted, was not compelled by the Laws to stay any time for the Man, but might again refuse him, though present, much less bound to expect one that was absent and at a distance: "By that new Law he excepts a Soldier, though a Volunteer in the Service, his absence being for the publick Concernments, and Ordaines, that a Woman Contracted to such an one shall stay two years for him; condemning him to an Island that should contract or marry her to another within that time; but in Case he returned not within two years, which time was thought sufficient for one Expedition, she might freely Marry to any other. That this Law had respect to this Expedition against the *Goths* by way of Encouragement, we may be induced to believe from another, which this same Month of *April* he made in way of Punishment and Compulsion for the same Service. The *Veterani* or old Souldiers had so great Privileges by the Laws, that it was thought but reasonable, that when there hapned any urgent occasions, their Sons should be compelled to serve in the Armies; but many of them were so backward, especially in *Italy* (where since the time that *Augustus* began to spare the *Italians*, they had applyed themselves much to Husbandry, and been averse to War) that to make themselves incapable, they would cut off their Thumbs, and Parents were wont to make their Children unfit to bear Arms. *Constantine* had formerly, when he had War with the *Sarmatae*, Published several Edicts for restraining of this Humour, and forcing them into the Field; and having the same occasion, he now commands "That such of them as entred at sixteen years of Age, and are not fit for Military Service, be condemned to Offices and Services in the Towns and Cities, thereby cutting off the Privileges, which else they enjoyed. And succeeding Princes punished them with greater Severity, as we shall see in due time and place. But as for this War, it was finished with that Success by *Constantine* the Son, that about one hundred thousand of the *Goths* perished by Hunger and Cold, besides those that fell by the Sword, and they were constrained to give up Hostages, amongst whom the Son of *Ararich* their King.

19. Thus were the *Sarmatae* delivered from the Inroads and Oppression of the *Goths*, but within two years were more roughly handled by their own Servants called *Limigantes* (and afterwards *Arcaargentis*) by whom they were beaten out of their own Countrey. They have been forced to Arm them against the *Goths*, and these Slaves thereby coming to know their strength, would not own any more Subjection, but turned their Arms against those for the defence of whom they had taken them up; who thus outed of their Dwelling, betook themselves to the Emperor, and by his order were bestowed through *Thrace*, *Scythia*, *Macedonia* and *Italy*, to the number of three hundred thousand of both Sexes, all Ages and Conditions; but such as were fit for Service, he took into his Armies. By the Subscriptions of the Edicts of the year, wherein *Optatus* and *Paulinus* were Consuls, it appears that he was in *Myfia* and *Dacia* in the Months of *July* and *August*, probably to take order in this Affair. One bears Date of the seventh of *July*, and on the thirteenth of *August* following we find another Famous Law Dated from *Nicomedia*, concerning the Testaments of Souldiers in Expedition, or in present Service, by which they are discharged from the Obligation of such Solemnities as the Law makes necessary in the Wills of other Persons; and theirs made good, if but written on the Scabberd of their Swords or their Targets with their Blood, or with their Swords in the Dust such time as they died in Battle. now this bearing Date on the Ides or thirteenth of *August*: The next that follows, is that made at *Naisus* in *Dacia*, and bears Date but eighteen days after; so that *Constantine* must have posted up and down in the space of two Months and less from *Singindunum* in *Myfia*, back to *Nicomedia*, and from *Nicomedia* to the Borders of *Naisus*; which is agreeable enough to his Practice, and to the pains he took, but the time was so short, that with our learned Lawyer, we may be content to cast back this Edict concerning the Testaments of Souldiers, nine years, to the year cccxxv, and acknowledge it here to have been misplaced.

Constantine his Son overthrows the *Sarmatae*.

His Edicts in reference to that War.

Sarmatae beaten out by their Slaves.

received into the Empire.

Constantine his Law concerning Testaments of Souldiers.

A. D. 332.

Pacatiano & Hilariano Coss.

Lex 4. de sponsalibus Cod. Th. lib. 3. Tit. 5. & Cod. Justin. eod. Tit. j. d. mirè interposita.

Sulp. Severus. in vita Martini. C. 1.

Inde Murci dicitur sunt ioculantes.

De filiis Militarium Apparitionum & Veteranorum. Cod. Theod. lib. 6. tit. 22. & 12. Cod. Justin. tit. 48.

Anonymus apud Sirmondum nunc editus à Valesio, una cum Ammiano Marcelino.

Hieron. in Chronico. Author vite Const. lib. 4. c. 6. Anonymus Sirmondi.

A. D. 334. L. 2. de Advocat. Fili dat. Singinduno. l. 3. de fide testium dat. Naisus Cod. Theod. L. 15. Cod. Justin. lib. 6. tit. 21. qui Testamenta facere possint, &c.

Sect. I.

He makes
Constans, his
Son, Caesar.

His Felicity

His Felicity

20. By the Edicts of the following year, it appears, that for some time he resided in *Myfia*, but was passing to and fro, and for the most part was at *Constantinople*; and now being arrived at the thirtieth of his Reign, here he Celebrated it with great Magnificence. About this time (some say this very year, though others place it two years backward) he conferred the Dignity of *Cæsar* upon *Constans*, his third Son, and (as *Zosimus* writes, *Dalmatius* the Son of his Brother *Dalmatius*, had the same Title, together with *Constantine* his Brother, and *Annibalianus*, being in some sort also made Partakers of that Imperial Dignity, adorned with Purple, and other Robes set off with Gold, and styled *Nobilissimi*, because they were of his Kindred. The thirtieth of his Keign being over, the Author of his Life farther tells us, that having long before Married his Eldest Son, he procured a Wife for *Constantius* his Second, and solemnized the Marriage with all Splendor imaginable, feasting the Men and Women apart by themselves, and in honour hereof, bestowing Gifts upon all Nations and Cities. Much about the same time Ambassadors came to him out of *India*, bringing Presents of great Value, and greater Rarity; not only Gemmes, but certain Animals, unknown before to the Western parts of the World: and he adds that this they did to signify, that his Empire and Dominion extended as far as the utmost Shore of the Ocean; and observes, that as at his first Promotion, the *Britans* in the most Western Parts of the World, first submitted to him; so now at the last the *Indians* in the most Eastern acknowledged his Sovereign Authority. Having receiv'd this Acknowledgment, he divided his Empire amongst his three Sons, assigning to *Constantine*, his Eldest, the Grand-father's share, the East to *Constantius*, and that Part lying betwixt them unto *Constans*; but above all things desirous that they might be fitted for Government, he appointed them Tutors and Instructors, the best that could be had, to teach them the Arts of Peace and War, the Liberal Sciences, and especially to ground them well in their Religion. Thus the Author of his Life in his Panegyrical way, who must not be understood as if *Constantine* resigned the Empire to his Sons and put off his Cloathes before he went to bed; but about this time, when he promoted his youngest Son and Kindred, we find that the Empire was Govern'd in this manner: *Constantine*, the Eldest Commanded in *Gall*, and some Western Provinces; *Constantius*, when a Boy (as *Julian* testifies) had had the Name of Commander in *Gall*, but now Govern'd *Africk* and *Illyricum*, and *Italy* was ruled by *Constans*. *Dalmatius* was appointed to defend those Parts that bordered upon the *Goths*, and, as some say, *Misopotamia*; and *Annibalianus* had Charge of *Cappadocia* and *Armenia* the less.

21. This Division as we said, was not made by *Constantine* in order to the devesting himself of his Sovereignty; but to the better Government of the Empire, and the Breeding of his Sons; yet this seemed a Preparatory or Ominous to what within little more than a year ensued. He was now above sixty Years old, a great Age for Princes as usually it happens. All this while he had continued in perfect Health and Vigour, so as to endure Exercise, Riding and Travel. His Understanding he had perfect, so as still he would compose Prayers and Orations, converse and Discourse with his Friends, and assist with much Dexterity at the Framing of his Laws and Edicts, both relating to matters Civil and Military. Not long before his Death, he made a Funeral Oration in the Place where he was wont to speak, and therein discoursed of the Immortality of the Soul, of the Rewards in the future Life, which attend those that live well here, and the Punishments appointed for wicked Persons. By this and other Courses he took, he endeavoured to prepare himself for another World, and make his Passage into it more easie and quiet: but his Meditations were interrupted by News from the East, where the *Persians* made Disturbance; which when he received, intending (as he said) to make this his last Victory, he rais'd an Army with all Expedition: of this the Enemy having Notice, and fearing to be engaged in a War with him, sent their Ambassadors, who upon their humble desire of his Friendship, and Promise to give Satisfaction required, obtained Peace. *Constantine*, about this time, entring into another Journey; for now he began to be distempered, which when he found, and that his Disease increased, he made use of the warm Baths of the City, and afterward went to *Helenopolis* (a City built by him in Memory of his Mother) to perform his Devotions in the Martyrs Church. Hence he remov'd to *Nicomedia*, and there in the Suburbs thereof call'd *Achyrona*, having received Baptism, departed this Life on the two and twentieth Day of *May*, being *Whit-sunday*, as some affirm; in the sixty second Year of his Age, and the thirty second of his Reign, (though others write somewhat variously, as to the punctual time) the first year

A. D.

335.

L. 21. decu
onibus dat.
Vintinacio p
Non. Aug. &
l. 4. Cod. Just
de Offic. Recl
Provinc. dat
Nicomedi.
1 Kal. Novem.

Vita Constan
tini li. 4. c. 4
50. & c.

Orat. 1.
Chron. Alexan

Anonym. Sym-
mondi, Vide
Chron. L. L.

Author Vita
Constantini, li
4. c. c. 53,
55, 56. & c.

He dies.

of

Sect. 1. of the two hundred seventy ninth Olympiad, the thousand and ninetieth year of A. D. *Rome, A. D. Cccxxxvii. T. Fabius, Titianus, Maximinus and Felicianus* being Consuls, some reported that he was poyson'd by his Brothers and Nephew; but he that first reported it deserves no Credit, and they that received it from him were too remote from the time of his Death, to gain any better Reputation as to this matter. None of the Antients, be they Christians or Heathens, making mention of any such thing. But of the latter sort, what Practices soever were made against his Body) some are conceiv'd to have offered great Violence to his Memory; which Wound, most of the former sort endeavour to bind up and heal, yet some gladly would keep it open, and make it bleed afresh, and that out of kindness to the other Party, however they veil themselves under the Christian Name. Here, for very weighty reasons, it highly concerns us, the Reader, and the Truth to interpose, but with a cautious and wary hand: if Incurable, such we shall confess and leave it; but if it may be healed up, though not without some Cicatrice or Fear remaining, no good-natured Men will blame us for endeavouring to cause others to think and speak well of the Dead.

337.
Titiano & Feliciano Coss. Philologus. Recentiores, ut Zonaras & Cedrenius. c Non Socrates, Theodoretus, Sozomenus, &c. non Victor Eutropius, Zosimus.

His Character
by Eutropius.

And, in order to an indifferent Procedure, we shall (without mincing the matter) produce those Characters which are given him by Writers that are esteemed to have born him no good Will, and which indeed speak the worst of him: nay, we shall take it for granted, that such Christians as speak largely in his Commendation, speak out of Affection; and not producing their Denial against the Affirmation of the other (though there be as much Reason to believe Affection, as Malice and Hatred) Condemn him in all things his Adversaries alledge, without all benefit of Compurgators, except Reason and unquestionable Records, such as cannot be judged partial, do acquit him. First then *Eutropius*, a Writer of the Pagan Perswasion, lays this to his Charge, "That by Prosperity being something altered from his goodness of Disposition, he first began to persecute his own Relations; as his Sisters Son, an excellent Young Man, of great hope, his Wife and very many of his Friends: for this Character he gives him, that at first he was a man to be compared with the best; and toward his latter end with the Indifferent or Middle sort of Princes. Innumerable Excellencies, he saith, both of Body and Mind were eminent in him. He was most desirous of Military Glory, Fortunate in War, yet so as his Fortune did not exceed his Industry; for after the Civil Broils, he several times Defeated the *Goths*, and at length granted them Peace, and gave the Barbarous Nations occasion to have a deep Sense and Memory of his Grace and Clemency. He was given to Civil Arts and Liberal Studies, was an Affector of Justice, and the love of his People, which he altogether endeavoured to procure by *Liberalty* and *Courtesie*. As toward some of his Friends he was *uncertain*, yet extraordinarily kind, whom to enrich still and advance, he would omit no occasion. Many Laws he made, some Good and Equitable, more Superfluous, and some severe. And first of all others, adventured to advance a City of his own Name to that height, as to make it æmulous to *Rome* it self. Going about to make War upon the *Persians*, who now harassed *Mesopotamia*, in the one and thirtieth year of his Reign, and the sixty sixth of his Age, he died in the publick Suburbe at *Nicomedia*. His Death was foretold by a Blazing Star of an unusual Bigness, which the *Greeks* call a *Comet*, and he deserved to be reckon'd amongst the *Divi*. So much *Eutropius*, as near as we can Translate him, who lived when the *Latin* Tongue was much altered.

Verum insolentia rerum secundarum aliquantulum Constantinum ex illa favorabili animi docilitate mutavit. Innumera in eo animi corporisque virtutes claruerunt. civilibus Artibus & Liberalibus Studiis deditus, affectator Justitiae & Amoris, quem omnino suorum Liberalitate & docilitate quaesivit.

By Victor.

23. The next we shall produce, is *Aurelius Victor*, one as little addicted to him, as the former. He having given us an account of his War and Dealing with *Licinius*, adds, "That having by admirable success obtained the Monarchy of the *Roman* Empire; at the suggestion of his Wife *Fausa*, as was thought, he caused his Son *Crispus* to be put to death: afterward he procured his said Wife to be stifled in a Bath; being reproved by *Helena* his Mother, which took most heavily the death of her Grand-son. Then for his Character, he tells us, that he was greedy of Praise or Fame above Imagination, and yet he saith, he was wont to call *Trajan Herba parietaria*, for having his name upon so many Walls in *Rome*. He built a Bridge over the *Danube*: his Royal Apparell he adorned with Gems, and always wore a Diadem; yet was he most profitable to the State in several respects: By most severe Laws, he repressed Calumnies; He cherished Good Arts, and especially the Studies of Learning; He himself was given to read, to write, to meditate; was wont to give Audience to Ambassadors, and hear the Complaints of the Provinces. Having made *Cæsars* his own Sons, together with *Delmatius* his Brothers Sons, having lived sixty and three years, and thereof Reigned half

Fuit vero altera quam assidue potest laudis ac idus. Hic Trajanum Herbam Parietariam ob titulos multos adibus inscriptos appellare solitus erat. Commodissimus tamen rebus multis fuit.

(60

Sect. I. (so as thirteen by himself) He died of Sickness. A *Giber* rather than fair-spoken; "A. D. 337.
 whereupon by a common Proverb he was said for ten years to have been a most
 excellent Prince, for the twelve following a Robber, and for the ten last a Pupil,
 or Child by reason of his Immoderate Expenses. His body was buried in *Byzanti-*
um, call'd *Constantinople*. These two give some Blows to the Memory of *Constan-*
tine, and upon account of their Religion cannot but be esteemed Adversaries to
 him, and of the other Party; but these are but Velites, their slight Weapons, weak
 or blunt; or if they wound they seem to carry a Balsom along with them, for they
 Praise more than Dispraise him; but he that follows lays on Stroaks indeed, and
 that with invenomed Steel. His Pen makes him so black and ugly, that scarcely
 any of those fair Lines can appear, which they both discern and own in him. And
 by what hath been already said, the Reader may easily guess, that it is *Zosimus*,
 some part of whose Accusation we have had already occasion to mention; and now
 shall be faithful in producing what remains.

By Zosimus.

24. Scarcely is there any thing he ever did, or said, but this Writer if he can,
 makes an ill Construction of it. Having first raised what Prejudice he may concerning
 his Birth; his Endeavours after Preferment he ascribes to the heat of his Ambition.
 In the Quarrel betwixt him and *Licinius*, he will have him the Aggressor, as being
 accustomed to break his Word; yet all this while he makes him to have conceal'd
 the Naughtiness of his Disposition. But *Licinius* being removed out of the Way,
 and all the Power being left in his own hands, he tells you he no longer dissem-
 bled, but acted according to his Lust and Pleasure. Then he gives us the Narra-
 tion of the Death of *Crispus*, and how he began his Impiety at his own House; his
 changing his Religion thereupon, and his founding of his new City, upon the Quarrel
 betwixt him and his Subjects of *Rome*. After this he tells us how he was beaten
 by the *Scythians*, and giving up himself to a voluptuous Life, ordain'd the Allow-
 ance of Corn to the Inhabitants of *Constantinople*, and profusely spent the publick
 Revenue in useless Structures. But these are more general, and speak him a Bad
 Man: now follows more particularly what declares him a Fool, an ill Statesman, and
 a Tyrant altogether. He also (saith he) made a disturbance in the Offices of
 Magistracy formerly Instituted. For whereas there were before two *Præfetti*
Prætorio, who ordinarily executed that Charge; not only those that served in the
 Court were under their Command; but also such Souldiers as kept the City, and
 all they that lay upon the Borders, the *Præfectus Prætorio*, who was Esteemed
 the Second after the Emperour himself in Dignity, had the Charge of Provisions
 for the Army, and Power to punish such as offended against the Discipline there-
 of: but *Constantine* altering such things as had been well settled, divided this one
 Magistrate into four; for to the one of them he assigned all *Ægypt* with *Pentapo-*
lis in *Libya*; the East as far as *Mesopotamia*, besides *Cilicia*, *Cappadocia*, *Armenia*,
 and all the Maritime Tract from *Pamphilia* as far as *Trapezond*, and the Castles Si-
 tuate upon *Phasis*; and moreover *Thrace* and *Mysia* (bounded by the Borders of
Asenus, *Rhodope* and *Topeus*) besides *Cyprus* and the Islands *Cyclades*, *Lemnos*, *Im-*
brus and *Samoethracia* excepted. To the second he Assigned *Macedonia*, *Thessaly*,
Crete, *Greece*, with the adjacent Islands *Epirus*, *Illyrium*, the *Dacians*, *Triballi*
 and *Pannonians*, as far as *Valeria*, with the upper *Mysia*. To the third all *Italy*
 and *Sicily*, with the adjacent Islands; as also *Sardinia*, *Corfica* and *Africk* from the
Syrtes, as far as *Cyrene*. And to the fourth the *Celtæ* or *Galls* beyond the *Alpes*,
 with *Spain* and the *British* Island.

25. By this means having thus divided their Office, by other ways, he also
 studiously endeavour'd to destroy their Power; for whereas in all places, not
 only Centurions and Tribunes, but also those they called *Duces*, who served in
 the place of Generals, had Command of Souldiers; he by instituting *Magistri Mi-*
litum, whercof one commanded the Horse, and the other the Foot, with Power
 to order and punish them, much more infringed the Power of the *Præfetti Prætorio*.
 That this, both in time of Peace and War did endamage the State, he assures us
 he will make appear: For the *Præfetti Prætorio* in all Countries collecting the
 publick Revenue by their Officers, and paying the Souldiers had all Military men
 at their Devotion, who considered it was they, that both paid them their Wa-
 ges, and had Power to punish them, if there was occasion. But now there being
 one that pay's them, and another that punishes them, they do what they list,
 although one might also allege, that the greatest part of their Provisions are de-
 voured by the Captain and his Officers. *Constantine* did another thing, which
 made free Passage for the Barbarous Nations into the *Roman* Provinces: for all
 the Borders of the Empire being by the good Forecast of *Dioclesian* fortified with

Garri-

Sec. I. Garisons and Castles, and therein the Militia lying, the Barbarians were thereby "A. D. barred of all Access. This Security Constantine abolished by removing the great- " 337. est part of the Souldiers from the Borders, and placing them in Towns where " there was no need of them; whereby he deprived them of their Defence, which " were lyable to the Inroads of the Barbarians, and plagued those Places with " Souldiers, which were in Repose; and by this means many of them were utterly " depopulated, besides the enervating of the Souldiers by the Pleasures of the " Theatre, and other voluptuous Courses; and to speak simply, he laid the Founda- " tion of those Mischiefs, which to this time have followed. Then after an Ac- " count given of the greatness of Constantinople, he subjoyns, that all this being done he ceased not to burthen the publick Revenue with Pensions, which were not " assigned according to Reason, but to persons unworthy and unserviceable. To " such as paid Tribute he was burthensom; but enriched such as were utterly use- " less: for, Profuseness he esteemed Munificence. He laid a Tax of Gold and Silver " upon all that exercised any Trade in all Countries, even the very meanest, so " that Strumpets were not excused from it. Hence came it to pass, that upon " the Approach of every fourth year, when this was to be paid, there was nothing " but weeping and Lamentation throughout the City; and when it came, great " were the Tortures which those Miserable Creatures endured on their Bodies, the " Purfes of whom could not reach to the Imposition; so that Mothers sold their " Children, and Fathers Prostituted their Daughters to make up the Payment of " this Tax, which they called *Chrysargyrum*. He devised also another Course to " Torment those that had considerable Estates; for such he would call to the Dig- " nity of the Prætorship, and under pretence of this Honour, make them pay a " great sum of Mony. So that when the Officers came to see this executed in the " Cities, all would run away into Forreign parts, as unwilling to purchase Ho- " nour at so dear Rates. All the Estates of those of greatest Quality he kept Re- " corded, and Imposed a Tribute upon them, called *Follis*; by which Impositions " he exhausted the Cities; and the payment of them being exacted long after his " death, very many of them were rendred Desolate without Inhabitants. That " Constantine having all these ways endamaged the Common-wealth, at length di- " ed of Sicknes. And time it was.

An Answer to
Zosimus his
Calumnies.

26. Now, for Justice her sake, let us Pause a little; and to Consider of these grand Acculations, it will be convenient to Reflect upon the Condition and Qualifications of Accusers or Witnesses, and their Testimonies, so as to discover their Knowledge and Faithfulness, without which their Witnessings signifie nothing, but rather make for the Party accused. There are some Witnesses then that are called Certain, and others Uncertain. The certain Witness is he that was present, or saw the thing done; the uncertain, is he that only had it upon Hearsay; and as to this matter *Plautus* says well, that one of the former is worth ten of the latter sort. There are also indifferent Witnesses, and Witnesses Partial; either upon the account of Favour, or Enmity, or Malice. Partiality requires Abatement on both sides; but as all Laws have ever been more favourable to Charity than the contrary Extream, the Enemy-Witness is in equal disesteem with him that speaks for Gain, that's bribed to give a Testimony, is rejected as well as he; and for this Reason it is, that we know accused Persons to have the Privilege, in our own Country, to except against a considerable number of Persons of those that are Judges of Fact, and in the Power of whom it is, to accept or reject the Testimonies of such as shall but witness against them. We further know it to be the Duty of a Witness, and constantly given him in Charge, to speak the Whole Truth, as well as nothing but the Truth; especially it's behoveful, when the Reputation and Fame of a Person is call'd in Question. As the Commendation of a Friend, or the Accusation of an Enemy is not to be regarded much; so if they speak quite contrary, they are of Weight and Moment; of all others, that being the fairest Testimonial, which a known or professed Enemy makes. In the next place, if two Adversaries joyn in the Commendation; a third, who alone gives an ill Character of the same Person, must needs be esteemed partial, and if he make him Guilty of what they acquit him, he is in no case to be credited as to the rest; nay this would hold (it being a matter of dubious, and therefore of Charitable Construction) though there were but one that testified contrary to the other. In conclusion, a Witness that is convicted of Forgery or Contumely, is infamous, and barred of all Credit: for Witnesses, not Witnessings, are to be believed.

27. Now all these Rules, if to Witnesses in private Causes and Accusations, much more are Applicable to Historians; for History is by *Cicero* termed, the Wit-

Testis Certus; Incertus. vide Calvini Lexicon. Pluris est Testis oculatus unus, quam auriti decem. Testis idoneus. Peter Filio, aut Filius Patri non est. vide Testibus lib 22. Tit. 5. & vide l. 3. Cod. Tit. Testimonium est Testimonium quod ab Hostibus petitur. Jure dubio benigniorem Interpretationem sequi, non minus Justum est quam tutum. l. 152. ff. de Regulis Juris. Hadrianus Junior Rufino Proconsuli Macedoniae rescriptit. Testibus se, non Testimonio creditum. l. 3 ff. de Testibus, & vide L. 3. Cod. Tit. vide Calvini Lexicon in Testis.

Sect. I.

From the
Conditions re-
quisite to a
Time.
Testimony.

ness of Times; so that if an Historian fail, either in Knowledge, or Veracity; the injury he does extends to Posterity: not like that done by a private to a private Person in a Court of Justice, in which usually the present Age (nay seldom that) is only concern'd, and dyes with the Party injured; whereas the wound given by an History bleeds still, as long as History and Time will last. In other false Testimonies a few persons are prejudic'd, in this all future Ages abused. Now then, to deal impartially, of these three Writers last mentioned, the two former can only pretend to the Repute of Certain Witnesses, or to what bears some Proportion to this Qualification. *Eutropius* served under *Julian* in his Expedition against the *Persians*, and so might be an Eye-Witness of many of the Acts and Performances of *Constantine*; could not but know, both what he practis'd, and what the general Sense and Opinion was concerning him; how much beloved, or hated: for what he was commended, and for what condemned, and writing at the time when all this was fresh in every mans Memory, could not for Shame contradict the Sense of the Age; especially all Fear being past, the Family of *Constantine* having already fail'd, and another possess'd of the Imperial Power. *Victor*, though not altogether so ancient as he, might also live in the time of *Constantine*; but as for *Zosimus*, who was in Employment as *Comes* and *Advocate* of the Treasury under *Theodosius Junior*, he could not reach his Days, who died about or nigh an hundred years before he could write his History; and therefore he might be a *Testis auritus*, but not *Oculatus*, an Ear-Witness, but not an Eye-Witness; except at the second hand, as he might see what they had written of him, and take it upon Trust from them. As for the second thing, they were all *Pagans*, and upon that account lyc, at least, under a Vehement Suspicion of Partiality: for of all Prejudices nothing like that of Religion: ill Livers indeed, or Atheistical Persons, on all sides, may be little concern'd what Opinion prevails; but those that have a Sense of things above them, and especially, if Zealous, entertain no Concernment like to this. Above all, such as conceive themselves of the old Religion, and disturbed by those they account Innovators, vehemently resent the alteration. Nothing in the World hath rais'd such Passions, and consequently procur'd such Extravagance in Speaking, Writing, and Acting, as a Religious Zeal.

A. D
337.

28. For *Eutropius* and *Victor* there is not so much to be said, but that *Zosimus* was most Zealous for the old *Ethnick* Religion, is so evident, that none can deny it; not his friend *Leunclavius*, who owns his spleen against *Constantine* hereupon, and excuses it, as against one, who, first of the Emperours, deserted the Religion of their Ancestors. This so overruled his hand, that he could put nothing but Gall into his Ink; whereas the Duty of an Historian in delivering the Character of a Person is, to speak the whole Truth, as well as it is the Charge of every private Witness. The usual fault indeed of those who write the Lives of men, is agreeable to the common Practice of Painters, who generally make mens Pictures with better Lines and Colours, far more graceful, than they are themselves; and you shall hear some say, it's no matter, though it be not so like, so it be good Work; as if that could be called *Titius* his Picture which resembles *Sempronius*, and hath little, or nothing of the other's Face: but *Zosimus* hath not offended on this hand, being afraid, that the Pourtraiture of *Constantine* should be mistaken for his Cousin *Julian's*, because they were so near a Kin. We have heard and read for certain, that Religious Phancy hath been so powerful in some, as to clean the Feet of the most Eminent of their Adversaries; and as to particular Persons more lately abroad; so long ago in our own Country, to have affixed long Tails to an whole Country, which some silly People of a neighbouring State, will scarcely believe, but are appropriate to the whole Nation; and thereupon, when they reproach us, usually they call us *Steorts* or Tails. Little better Construction can be put upon *Zosimus* his Design, or any mans else who writes nothing but ill, and that to all Excess, against a Person, who it cannot be denied but had very good Qualities, and did as great things to set him off with Lustre. For whereas *Leunclavius* takes it for granted, from the Allegations of others, that he gives him Commendations, there is little or nothing of this to be found. If he can put an ill interpretation upon any thing, he puts it: but if sometimes he relates some Actions, which Malice it self cannot blemish, and which he is constrain'd to mention, no good use to his Advantage makes he of it; but leaves the thing it self to speak, or rather forces it not to speak (which he cannot do) contrary to the very Nature and Drift of it. And this is all the Right he doth him, if sometimes not to do Wrong be said to do Right to any Person. How oft doth he Insinuate concerning his breach of Faith, without any excusable occasion? And lays the War against *Licinius* upon him, without any

Tantum Reli-
gio potuit sua-
dere malorum.

Kent, because
of the Murder
of Becket.

S. Ct. I. was either a sufficient Cause, or he was abused by his Wife, Cruelty for this cannot be laid to his charge; and we might instance in Kings, that have through Mistake, and by Instigation of others, both long ago, and of late put to death their Sons, and yet have not incurred so grievous Censures of Cruelty and Unnaturalness. A Moral Man would think, that what *Viſtor* sayes of his greediness of Praise or Fame, above imagination, seems something inconsistent with what he subjoyns concerning *Trajan*. The Humour of that Prince was not unlike to that of our Church-wardens at present in our Parish-works. There could not any Publick Building be erected, but he must have his Name set upon it, which *Constantine* taxed, both by a Jest, and his own Practice. He called him *Herba Parietaria*, or Parsley, because his Name grew, as it were, upon Walls; but as for himself, though he Erected so many sumptuous Structures, (especially Churches, & *hinc illa lachrymæ* to our *Zosimus* and others) yet it's observed, that seldome or never could his Name be found upon them: so that this Desire of Praise must rather, as *Extropius* explains it, be taken for Thirst after Military Glory.

31. His wearing of a Diadem, and Gems in his Cloaths can argue little more, than that he was of a Gay Humour, and lov'd to appear Neat and Splendid; which also he betrayed in his Diet and his manner of living, with which *Julian* so twits him. And yet as to his Diadem and Feasting, there might be somewhat of a Religious Concernment: for probably he refused to wear the usual Laurel about his Head, as superstitiously dedicated to *Apollo*; and his Feasts were the many and great Entertainments he made for the Bishops and other Christians, especially at the Festivals appointed by the Church. This so moved the Stomach of *Julian*, that in his Tale of the *Cæsars*, because of his voluptuous Life, he feigns him to have chosen to live with the Goddess of Pleasure, and by her to have been put in womens Clothes. You must know the man was wonderfully taken with the Conceit of womens Clothes, and therefore, as his Friend *Zosimus* acquaints us, was wont to punish such Souldiers as fled from their Colours, by habiting them therewith. Now think you, that judging it a fine Device so to disgrace those that forsook the Camp, he would not think fit also, in the same manner, to make ridiculous him that had forsaken the Gods, and deserted the *Pagan* Religion? How could he possibly dispense with so witty a Conceit? And he jeers him for being curious about his Hair; in revenge, as we may judge, for being himself derided by the *Antiochians* for affecting to wear a long Beard, and that (as his Friends confess) very ridiculously. However he might be pleased to be neat and splendid, that he was no effeminate Person, both the Testimonies lately produced, and the great things atchieved by him sufficiently speak: amongst which, that is not the least which *Julian* himself hints in his Tale, concerning his Recovery of a Country, which *Trajan* formerly had subdued. This was *Dacia*, which after *Trajan* had with vast Labour and many Battels laid to the Dominion of the Empire, it again shook off the Yoak, and being more troublesome and harder to Manage than before, after so many Emperours, was again reduced to Obedience by *Constantine*.

32. But we come to those Matters wherein he is laid more especially to have done amiss, as a Statesman, and a Prince. These are, changing the Politie of the State, drawing the Garrisons from the Borders, and the cruel Opposition of his People. *Zosimus* charges him for having made four of two *Præfetti Prætorio*, and giving much of their Power to the new Officers call'd *Magistri Militum*. As to which we must take leave to consider, whether it was He who first made the four *Præfects*, and then whether he did amiss. Suppose he made them, and gave away their Power. First then, upon Inquiry it appears, that he made them not; but found four, and so left them: for there being then a *Tetrarchy* in the Empire, each of the Emperours and *Cæsars* in their several Districts had his *Præfectus Prætorio*, as *Gothofred* well observes, which at last (when he had subdued all his Adversaries) coming under his Dominion, he let remain still, as many as they were; but when as their Power was too great (which by reason of the Obligations, or Punishments they might put upon Souldiers brought the Armies to be at their Devotion) or for other Reasons respecting the Persons who were now employ'd, whom he might not have cause to trust with so great a Command, he instituted a new sort of Officers call'd *Magistri Militum*, who should Govern both Horse and Foot, but the Nature and Reason of the Employments of these and others Officers will more appear shortly, when we come to describe the whole Politie of the Empire. As little Truth is there in the other thing laid to his Charge; that he drew off the Souldiers from the Borders, and leaving them naked, thereby gave the *Barbarians* free Access into the *Roman Territories*. The Empire had several Borders or Limits,

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Philip of Macedonia, his Son Demetrius; and Philip of Spain, his Son Charles.

Mibi Delphi
Lauro Cinge
volchs Delpho-
mene comam.
Horat. Carm.
lib. 3. od. ult.
& Lauro don-
dandus Apollis.
navi. Carm.
lib. 4. od. 2.

Ο Λοκωσις καὶ
κομμορπιας βί-
ον Χαν.

It answers to
Particulars.

He made not
four *Præfetti*
Prætorio.

He drew not
the Souldiers
off from the
Borders.

Sect. I. mits, which according to the several Exigencies of Times, it behooved Princes to look to: but in the time of *Constantine*, and long after, they were especially concern'd to have a care of the *Myſian and Scythian* Limit, as it was called, which lay upon the River *Danubius*, through which many Incurſions were made of *Sarmatians, Scythians, Goths*, and other Barbarous Nations, which at length bore down all before them. Now all manner of ways, it is moſt evident, that *Constantine* laboured to ſtrengthen theſe Borders, and keep faſt ſhut theſe doors, through which, after his Death, Ruine and Deſtruction entred into the Provinces.

33. For firſt, it is univerſally granted, that theſe People he often defeated and conquer'd; and brought *Dacia* under the Yoke, which had not been reduced ſince the time of *Trajan*. Then again, from the Dates of his Laws it is evident, as we have hinted before, that he was, even to his laſt, perpetually travelling to and fro, and moving upon theſe Borders. Next to this, *Victor* the Hiſtorian, beſides others, atteſts, that he made a Bridge over *Danubius*; and for what end did he make it, but that his Army might have Egreſs and Regreſs, for repreſſing the Inſolencies of theſe Nations; like as *Trajan* had done before him? Further, beſides this Bridge, he built a Caſtle or Fort in the ſecond *Mæſia* upon *Danubius* over againſt *Transmarisca*, for ſecuring both the Banks of the River, and reſtraining the Incurſions of the *Goths* (as *Procopius* informs us) which had the Name of *Daphne*, and from him the Diſtinction of *Conſtantiniana Daphne* in ancient Coins. All theſe Courſes he took cannot but ſatisfy an indifferent Perſon what care he had of the Borders, and that he himſelf neglected not the Building of Caſtles and Forts, no more than *Zoſimus* his beloved *Diocleſian*, where there was occaſion. But to give the Reader further Diſverſion in beholding the malicious Partiality of this Writer, it happens ſo well, that there is ſtill extant a Conſtitution of his (divided, in the Code into two ſeveral Laws) whereof the one adjudges him to be burnt alive, that ſhould procure to the *Barbarians* Liberty of making Deprædations in the *Roman* Territories (by deſerting their Stations and neglecting their Watches) or divide the Booty ſo acquired with the *Barbarians*. The other forbids the Officers of the Armies to give leave to Souldiers to be abſent from their Caſtles, or Colours, or thoſe Places where they lay to watch the Motions of the Enemy. If any gave ſuch leave, and in the Souldiers abſence no Eruption of the Enemy hapned; the Officer was to be puniſhed with Deportation, and the loſs of his Eſtate. But if at the ſame time an Incurſion of the *Barbarians* fell out, he was to forfeit his Head. If this doth not ſhew how careful he was, that the *Barbarians* ſhould make no Incurſions, and in order to this, that the Souldiers ſhould not by any means quit their Stations and Watches upon the Borders, then is there nothing in this World which can afford Arguments to our Relief. But let us further take Notice of the occaſion of theſe Laws. The ſame year they were made we are told, that *Constantine* lying at *Theſſalonica*, the *Goths* broke through the Borders, that were then neglected; and waſted the parts of *Thrace* and *Mæſia*, whom he repreſſed, and forced to beg Peace, and reſtore the Captives. This *Licinius* complain'd was againſt the Agreement betwixt them two; that he ſhould be ſo buſie as to reſcue his Territories, or the Borders which lay within his Government, from the Enemy; and thereupon Hatred ariſing betwixt them, a War at length enſued. Here we may ſee who it was that neglected the Borders, even he, whom, though *Julian* and other Pagans deſcribe as both odious to God and Men, yet deſerves no Censure at *Zoſimus* his hands. It was *Licinius* in whoſe Diſtrict theſe Borders lay, and who would neither look to them himſelf, nor ſuffer others to do it. On the contrary *Constantine* conceiv'd ſuch Indignation at theſe Irruptions, which brought ſo much Damage and Diſgrace to the Empire, that he could neither forbear by Arms to repreſs the *Barbarians*, nor by Laws inflicting no leſs than Death, to prevent their Incurſions for the time to come; and that by fixing the Souldier to his Station on the Borders. That he continued in this Mind and Practice to the laſt, his conſtant Journeys into theſe Parts, and other things here mentioned, declare. And now, Reader; paſs thy Censure where it's deſerv'd.

34. But to come to thoſe Cruel Oppreſſions of his People. And firſt, to conſider of the *Chryſargyrum*, or Tax of Gold and Silver, what it was, and whether he firſt Impoſed it upon the Subjects, from Tradelmen and Merchants to the moſt mean and vile of all others, even to Harlots; and that with ſuch Cruelty, as Mothers were forced to ſell their Children, and Fathers to prostitute their Daughters. It's Notorious then, that Gold was Exacted from Merchants, and ſuch as Trafficked, long before the time of *Constantine*. *Alexander Severus*, amongſt other Infirmities, that he might draw Trade to *Rome*, remitted to them, both the Gold called *An-*

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De ſediſ. J. R.
Biniani, lib. 4.
& Ammianus
Macellinus l.
27. vide Paleſti
annot. ad p.
340.

Cod. Theod. lib.
7. Tit. 1. de re
Militari. Vide
Gothofred in
L. l.
Cod. Theod.
Lib. 7. Tit. 12.
de comœatu
L. 1. & Cod.
Juſtin. cod. Tit.
L. 1.

Anonymous apud
Sirmondum
poſtea editus à
Valeſio una cum
Ammiano.

He brought
not up the
Chryſargyrum.

Lampridius in
Alexandro.

Sect. i. *rum Negotiatorium*, and *Coronarum*, of which the first is the same whereon we now
 Infist. This is affirmed by *Lampridius*, who lived in the dayes of *Constantine*, and
 dedicated to him the Life of that Emperour, so that he could not be the first that
 brought it up. But if we demand of *Zosimus*, at what time of his Reign *Constantine*
 imposed this Tax, he and *Leunclavius* his Apologizer, and such like, will tell us
 that it was after the Founding of *Constantinople*, toward the end of his Reign, when
 they talk so much of his Prodigality. But if we view the Laws made by him, and
 consider them well, we shall find in the middle of his Reign, ten years before the
 Building of that City, mention made of this very (a) Tax, as of a thing that had
 been in use of a long time; Money being then paid into the Publick Treasury by
 Merchants. So faithful is *Zosimus*, as to this Tax upon Merchants; and we shall find
 him full as worthy of Credit, as to that which concerneth Harlots. For amongst
 all those Extravagant Courses *Caligula* took to maintain his most lavish Expen-
 ces, he raised a (a) Revenue both from Whores and Pandars, and that by a
 Law made for this purpose: and how scandalous soever, the Imposition, it seems,
 continued to the time of *Alexander Severus*, who forbade the Money to be paid
 into the Treasury, but assigned it to publick Works, as the Repairing the *Thea-*
tre, the *Cirque*, the *Amphitheatre*, and the *Aerarium*. Therefore was neither the one
 sort nor the other first Imposed by *Constantine*, who, if he had any hand in contri-
 ving any thing of the former, made it to be *Lustralis Collatio*, or to be paid in four
 years, whereas formerly it was annual, or paid at some other set and constant time.
 This new Course might be more profitable for the Prince, who should receive a
 rounder sum together; and more easie for the Subject, who would have the Use
 and Improvement of his Money, the four years. Here was no Injustice. If the Col-
 lectors made it more burthensom, it was their Fault, not his Design.

Nor the Tax
upon Harlots.

35. The Imposition upon Pandars was taken away afterward by *Theodosius* the
 younger; and that upon Strumpets, by *Anastasius*. Of all Authors that write about
 it, not one layes it upon *Constantine*, *Zosimus* excepted. And though in the Code
 of *Theodosius* so many Constitutions we find concerning the *Lustralis Collatio*, or
 Gold and Silver imposed upon Merchants, yet not one word concerning any laid
 upon this sort of Women; therefore we may safely enough conclude, that *Zosimus*
 belyes him in making him the Author, either of the one or the other sort. If he
 continued, or by reason of his great need of Money, suffered this *Chrysargyrum* still
 to be exacted, by *Leunclavius* his good Favour, he is not so much to be blamed,
 as if he first had imposed it. But this Calumny is so gross, that some Learned men
 would gladly seek for an Evasion to acquit *Zosimus* of so much Malice and False-
 ness: instead of *Wenches*, it's thought *Work-men* should be read, the word that
 signifies the one kind being easily mistaken and false written for the other; such
 were Porters, Smiths and others, at this time lyable to the *Chrysargyrum*, whom
 afterward *Valentinian* the elder discharged of the Burthen; or else the Historian,
 they think, was mistaken, and took the *Tabernarii Negotiatorii*, who were obno-
 xious to this Payment, for the *Tabernarie Meretrices*; according as the same Ho-
 nest, good man, having heard or read that *Constantine's* Mother was a *Tabernaria*,
 very carefully and kindly wrote, that she was an Harlot; such Impartiality is there,
 and much more in our *Zosimus*. But upon further Examination, we cannot but
 find the Consequences of this terrible Oppression just as true, as the thing it self;
viz. The Cries and Lamentations that were to be heard throughout every City;
 and when the fourth year came, the Stripes and Torments used towards the Bodies
 of those miserable People, who could not reach to the Payment of the Money; so
 that Mothers sold their Children, and Fathers prostituted their Daughters. If in
Constantine's time any such thing hapned at *Constantinople*, which was a City as well
 as the rest, how could this cruel Exaction and Oppression of poor People consist
 with that great Care he took for them, even by *Zosimus* his Confession, that they
 should not want Bread? would he feed them because they were in want, with one
 hand, and beat them because they were in want, with the other hand: Give them
 Bread to supply their Necessities, and put them to Torture, because they were ne-
 cessitous, and had neither Money to buy Bread nor pay him his Tax? He must
 have been a pretty humorous Prince at this rate, or *Zosimus* pretty confident to
 dare thus to impose upon Posterity, and think all Fools that should come after
 him: for this Allowance of Bread was both given to the Old *Rome*, and the New;
 not to every City; his Revenue would not afford it. But though he could not
 supply all Poor with Bread, he took especial Care, that neither Poor nor Rich
 should be Imprisoned or Tortured for what was owing to the Treasury, declaring,
 that a Prison was for Malefactors, and such as deserv'd Punishment, not for them.

He tortured
not his Sub-
jects.

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(a) l. 2. c. 3.
Cod. Th. de
Veteranis, &
vide Comment.
Gothofred. in
l. 1. de Lustra-
li Collatione,
cod. Cod. lib. 13.
Tit. 1.
(b) Ex Gerulo-
rum diurni:
Quæstibus pars
octava, ex cap-
turis Pro-
stitutarum
quantam qua-
que uno Concu-
bitu mereret;
additumque ad
caput Legis ut
teneantur Pub-
lica, & qua
Meretricum,
& que Lenoci-
nium facissent.
Sueton. in Ca-
lig. c. 40.

στράτας pro
στράτες, i. e.
Σταργαί, Opt-
tarios.

L. 8. de Lustra-
li Collatione.
Cod. Th.
Vide Gothofr.
ubi supra.

Nemo Carce-
rem, Plumba-
tarumque ver-
bera, aut Ponde-
ra, aliaque ab
Insolentia Judi-
cum reperta
supplicia, in
Debitorum solu-
tionibus, vel ab
peruersis, vel ab
iratis Judici-
bus expavescat.

In

Sect. 1. In case any abused this his Clemency, then indeed he ordains they be kept by a " *A. D.*
Guard in strict Custody; and if they persevere in their Disobedience, that then " *337*
their Neighbours shall make distress; professing it to be his Judgment, that this " *337*
mild way is the best to procure the Payment of the publick Money. In general, " *Carcer Penali-*
by another Law he commands that all Exactions be made without Concussion or " *um, Carcer homi-*
severe Disturbance of the Debtors to the Publick, under great Penalties to be " *num Noxiarum*
inflicted upon the Exactors. " *ist, &c. Cod.*
" *Th. Lib. 11.*

36. The poor then were not by any Contrivance of his, Beaten or Imprisoned, and much less were they forced to sell their Children, or to prostitute their Daughters. So far was he from forcing them to any such thing, that whereas before, and in his time, in *Italy* and other places, it was too ordinary for Parents, when Poor and Necessitous, to Kill, Expose, Sell and Pawn their Children, by an Edict (which being written so as to remain most Durable, he commands to be made publick in all Cities of *Italy*) " for prevention (as he saith) of that *Parricide*; he orders *Ablavius*, the *Vicar* of the *Præfectus Prætorio*, to take care for the Maintenance of such Children as should be brought to him by Parents under that Qualification; and to the Expence assigns indifferently both his Publick Treasury, and his own private Estate. *Forasmuch* (so he notes) as the Education of Infancy can admit of no Delay. Taking notice afterward of the practice of Parents in *Africk*, who by reason of Want did sell, and pawn their Children; by another Edict, directed to *Menander*, the *Præfectus Prætorio*, he commands, that such as have no Estate, and hardly and difficultly maintain their Children, be relieved by the Treasury, before they be driven to such Necessity. To this end he impowers all *Proconsuls*, *Præsidents* & *Rationales*, throughout that Province, to give maintenance to all that were in such Distress, and Provisions out of the publick Granaries; concluding, that it was utterly contrary to his Inclinations or Manners to suffer any to perish with Famine, or proceed to so horrid a Fact. The next thing *Zosimus* mentions, amounts to this: that having in so great a Compass as the *Roman Empire*, many Persons Richer and more able to bear Offices than others, who ordinarily were forced to undergo them; he constrained them to discharge these Offices; or else, where he perceived it might be spared, there he exacted Money, for defraying of the publick charge, as at this day the City of *London* is wont to do. And an horrid thing that is which follows, that he would have the greatest Persons, as well as those of inferior Condition (for perhaps they were as able) to contribute toward the publick Expence. Besides, he tells us, that he was so truly prudent, as a Prince, and so well skill'd in his Trade, as there were none of his greatest Officers, but He understood their Estates; at least all their Lands (such might be known) he kept registred in his Books; and upon them he laid a Tax called *Follis*, which was not oppressing, or difficult to be paid. For having largely courted Senators (upon whom this Tax chiefly lay) and by building Houses for them, encouraged them to inhabit his new City: it's not to be imagined, that by any great Exactions he would deter them from continuing and discharging their Trust; which was with one hand to build, and with another to pull down; as in other Matters *Zosimus* forceth him to Act. But if we consider our Author well, he dares not say, that in *Constantine's* time any Mischief succeeded upon this Imposition; but that this continuing long after his Reign, the Riches of Cities were by Degrees exhausted, and very many were left without Inhabitants. Now we have known a thing prudently instituted, which coming through ill hands hath been diverted from it's first and innocent Design.

37. But whatever the thing in it's own Nature speaks, *Zosimus* his Design was to render *Constantine* odious; as we know it to be the Practice in all Reformation, of those who are addicted to the old way, to render infamous such as have been Instruments in the Alteration; and by a prejudice raised against the Persons most ridiculously to insinuate an ill Opinion of the Cause, or Thing it self. Although the Reader may by what he has already seen and read, be sufficiently satisfied as to this matter, yet is there one Remark still remaining, which so much shews the humour of the Man, that it will be for the Reader's Diversion to mention it. He tells us he often wondered how it came to pass that the City of *Byzantium*, being grown to that extraordinary height, so that no other, either in respect of Felicity or Greatness could be compared to it, yet this should by no Prophecy be foreknown to their Ancestors. Meditating much about so weighty a Business (you must know) and turning over many Histories and Collections of Oracles, after some time of Doubting, with much ado he light upon a certain Oracle of *Sibylla Erythraea*, or *Phaello* of *Epirus*, which Woman possessed by a pro-

Other Objections of *Zosimus* frivolous.

ἐπιμαρτυρίας
καὶ καὶ μετὰ
καὶ ἀντίγον
τῆς ἐπαρρήσεως
ἐπὶ χρόνον σι-
χρὸν ἐξαρτα-
μένη κατὰ βρα-
χὺ τὸ πλῆθος
τῶν πόλεων,
ἐρημοὶ τῶν οἰ-
κούντων αἱ
πλείσται γὰρ
ἦσαν.

Sect. I. prophesying Spirit, was reported to have made some Predictions, on which *Nicomedes* relying, and interpreting them as favouring his Design, by the advice of *Attalus*, made War upon *Prusias*, his Father. Now the main Drift of this Oracle is to declare, that a Wolf should have Dominion, and Wolves should inhabit the Parts of *Bithynia*, about such time (or a little before) as those that inhabited old *Byzantium*, should enjoy Regal Power. You may easily guess whom he will have meant by the Wolf, viz. *Constantine*, and by the Wolves, his Successors; and that because of the grievous Burthens and Impositions laid upon those Parts, so as though that Town, or the *Hellepont* should be happy in this respect, that it was raised to such height of Dignity, yet that grievous Wolfe should sore affright it. Now good Reader, consider but what this Interpreter himself hath writ concerning *Byzantium*; and how it was affrighted or afflicted by *Constantine*, even so much, Poor City! that it was enlarged, called *New Rome*, adorned with Imperial Privileges, and it's Citizens munificently provided for. In Conclusion, if he would interpret it *Astonished*, so it might well be at the Change of it's Fortune to so high a Decree for the better, that he himself was (as he confesses) seized with Admiration to behold it so advanced, that none could be compared to it, either in respect of it's Felicity, or Magnitude. It's a Question whether the man's Wit or Integrity were greater. Other guesses, if it were worth the while, might be made at this obscure Oracle (as they call it) and if, as some modern Authors do, we should say, that the *Turks* and their Tyranny better have expressed the Sense and Meaning of it, we should seem to any Wise and indifferent man, to have as much Reason on our side: but let *Zosimus* and his Oracle pass together with such Censure, as the Reader will find himself obliged to make, while we return to *Constantine*, and dispatch what is at present further to be said, in reference to this oppressing and harassing the People.

38. Who ever considers the Laws he made, views the universal Tenour of them, their Occasions and Drift with all Impartiality, must confess, that he was a great Reformer of Manners, took extraordinary Care for redressing Grievances, (though to his own Loss and Abatement of his Revenue) and by all Opportunities provided for the Convenience, Ease and Emolument of his Subjects. Any Learned man in things of this Nature will say, that he almost made as great Alterations, to these Purposes, in the Laws (both as to the *Jus Publicum* & *Privatum*) as he did (a) in Religion it self; and that *Nazarius* his Panegyrick cited by Learned *Gothofred*, is no Fable, although, as we formerly said, we shall neither produce it, nor any Elogiums given him by Christian Writers, to avoid the Exception that might be made upon the account of their Interest and Affection. It were too tedious a Work, and not proper for us here, to insist upon that, which would deserve a particular Treatise of it self, and, in some little measure by (b) others hath been performed; and besides what we have already instanced, we must speak largely of this Person upon another occasion. If the Reader will but peruse the first Constitutions of the several Titles of *Theodosius* his Code; especially with the Commentaries of the most Learned *Gothofred*, he will herein receive abundant Satisfaction. That the Law, which should afford Relief, might not be burthensome in the Practice of it; let him take Notice how severely he punisheth the (c) Avarice of Advocates. That his Subjects might not injure one another in Word, no more than Deed, what sharp Laws he made against (d) Libels, for repairing the Credits of such as were slandered in that way. How Innocent and Just his Mind in Reference to his (e) Revenue and private Men, appears by the Care he took for the Ability and Integrity of the Advocates of the Treasury; and how he preferred the Cause of private Persons before his own Gain in that particular; which, as he professeth himself in one of his Edicts, so it is the Opinion of the best Lawyers, that many more of his Constitutions do evidently attest and Confirm it. How cautious he was, that the Poor and Innocent should not be oppressed, nothing can be more evident, than that by one Edict he discharged the former Sort of the burthen of Taxes, and provides for the safety of the other by punishing Promoters and Informers with no less than Death. Farther how

at non etiam unus tantum aut alterius, quod *Baldwinus* fecit; cujus, ut semel dicam, Commentarii de *Constantino M.* *οὐκ ἀπορρίπτει* potius iusti alicujus operis continent quam ἀπορρίπτει aliquod. (c) Tit. de postulando. Cod. Th. lib. 2. Tit. 10. (d) Tit. de famosis Libellis ejusd. Cod. Lib. 9. Tit. 34. (e) Tit. de Advocato Fisci Lib. 10. Tit. 15. Quod itaque arguit quā, quāque innocens & iustus *Constant. M.* animus erga privatos fuerit, imò ex proximo L. apparebit quā potior apud eum privatorum causa fuerit. *Gothofred.* in Leg. 1. Idem in Leg. 2. hujus Tit. sic Primo loco occurrūt optimi Principis dictum illud de Moribus suis, quod, Potior apud eum Privatorum causa sit, quā Fisci Tutela. Quod de se dictum aliæ complures *Constant. M.* Constitutiones confirmant. Tit. de Consul. Lib. 13. Tit. 10. Tit. de Petitionibus L. 10. T. 10.

Sect. 1. great a Lover of Justice and exact Censor of Manners he shewed himself in the point of Contracts in reference to Marriage, in the case of Liberty, Donations, and other things; Persons who are truly Learned in the Laws, with Passion shew us. These and many other things being by him introduced, as Preparatives and Concomitants to true Religion; we shall in that place more properly discover, and Treat of particularly. But by this it sufficiently appears, that *Entropius* did not mistake him, when he wrote, that he was an Affector of Justice. As for what he says concerning his Laws, that many were Superfluous; we must consider the Man's Religion, and then we shall not wonder that his many Laws respecting Reformation and Christianity, are esteem'd Superfluous by a Pagan, as his Pious Magnificence in Building of Churches, accounted Childish Profuseness by such; although he was too kind also to those about him. A Great Man, and one as able to judge of things of this Nature, as any whatsoever, propounds to us the Excellent Goodness of his Laws, as that which best makes out to us his Life and Character; and although the Author of his Life (as all that Read it know) was a Panegyrist, and gives him great *Encomiums*, yet in comparison of what his Laws speak of his Tenderness and Charity toward the Poor, he is bound to affirm him jejune and Empty. From all laid together, both Affection and Malice being Silenced, he appears a Man of great Parts, and as great Performances; and deserves, in respect of those most Eminent Qualifications of his Reign, that Surname, which Posterity, and that early, thought fit to bestow upon him. As all men have their Faults, his greatest seems to have been a too splendid manner of Living, both as to his Attendance, Diet or Apparel; the thing his Bitter Enemy twits him with in his Tale of the *Cæsars*, who would not have omitted other Crimes to which the Age he liv'd in could have attested.

Ex hac verò Constantini M. in Pauperes Munificentiâ; atque adeo ex Constant. M. super eo Legibus, apparet, quàm sterilis præ iis Relatiô sit Authoris Vita Constantini. lib. 4. c. 28. Et certè non aliundè melius, certius, & Vistam & Characterem Constantini colligas, vel aliorum Imperatorum, quàm ex eorum Constitutionibus singulari. Gothofred. ad L. 1. de Alimentis, ut supra.

The Policy of the Empire in or about the time of Constantine.

39. But, though *Zosimus* maliciously charges him for thus Innovating in the Government, and Introducing new Officers, which tended to the Ruin of the Empire, yet must it be said, that in and about his time there was made a considerable Change in the Politic thereof. And now being arrived, at this Distance, from the Monarchy of *Augustus*, though the Sovereign Power was still the same, we find a new Face of Subordinate Government, each Prince having Contributed to it, as either Convenience directed, or his own Will and Pleasure inclined him. Therefore judge we it requisite to the Nature of our present Design, to give the Reader a Prospect of the whole Politic, such as it was in or about this time of *Constantine*. For amongst the manifold Advantages he reaps by the knowledge of Antient Times, that of the Nature of Governments, with the Power of Magistrates, is one of the greatest; and without this, he will not be able to understand and make use of the following History, with near so much Benefit and Improvement.

An Appendix to the History of Constantine, necessary for the understanding of the following History, containing the Polity of the Empire, or the Form of Government, either introduced by him, or in force in and about his time.

The Empe-
rour Head.

1. **T**HE Head then of the State, or the Emperour, was such at this time as we formerly describ'd him, possessed of as great and absolute Power over his Subjects as was consistent with Liberty. For he had all the Authority which long before had been conferred upon *Octavius Caesar* by the *Lex Regia*, and continued to *Vespasian* by renewing of that Law. In what manner soever he obtained the Sovereignty (for almost as long as Emperor and Empire continued, the Souldiers, when the fit was on them, would make the Choice) it was in his power to associate one or more to him; and it began now to be a Custom, for more security, to make Emperours before their death, whom they designed for their Successors. Their Promotion was by Nomination or Declaration; and the Ensigns of their Dignity was Purple, and of later times a Diadem; which, after that Christianity had well nigh obliterated Paganism, was solemnly set on their Heads, with Prayers, by the Patriarch or Bishop, which Ceremony We call a Coronation. For though some former Emperors sometimes put on a Diadem, yet before *Dioclesian* there was nothing singular as an Ensign of the Imperial Monarchy, but the Purple Robe onely; whereupon *Purpuram sumere* signified as much as to take the Imperial Power, and *Purpuram indui*, as much as to be made Emperor. But *Dioclesian* commanded himself to be adored, the Emperors before having onely been saluted as the Judges; and to his Cloaths and Shooes he added the Ornament of Gems. This being now the Custom, it was more confirmed by *Constantine*, who out of Averseness to the Laurel, as consecrated to *Apollo*, whose Temples and Worship he destroyed, constantly wore the Fillet or Diadem set with Gold and Precious Stones, and sometimes joyned with a Helm or Cap; which sort was generally worn by his Successors.

corona ostendat Regem, non facit.

Eutropius de Dioclesiano, qui Imperio Romano primo Regie consuetudinis formam magis, quam Romano libertatis invenit; adorarique se iussit, cum antequam cuncti salutarerentur: ornamenta Gemmarum vestibus, Calceamentisque indidit. Nam prius Imperii Insigne in Chlamyde purpurea tantum erat; reliqua communia. Vide Silidenum nostrum in Titles of Honour.

Caesar, or Heir
of the Em-
pire.

2. The next in Degree and Dignity to the Emperour, was he who bore the Title of *Caesar*, by which he was designed Heir to the Empire. Before this of *Caesar*, that of *Princeps Juventutis* was used in this sense, first given by *Augustus* to *Caius* and *Lucius*, his Grand-sons; for by retaining Names which were used in times of popular Liberty, as *Princeps* taken from the *Princeps Senatûs*, and *Imperator*, which had been the Title of a General, he sought to cover that stricter Government which he introduced. Till the time of *Adrian*, *Princeps Juventutis* continued to be the Title of the Heir Apparent; and *Caesar*, together with *Augustus*, was used in the Style of the Emperours themselves; and if sometimes it be found given to, or assumed by the next Heirs or Sons, during the Lives of their Fathers, it was but as if whoever was a Son of him that was called *Caesar Augustus*, should have the Name of *Caesar*, (not Title) to denote the Honour and Blood received from such a Father. But *Adrian*, adopting *Aelius Verus*, gave him the Title and Style of *Caesar*, as singularly denoting him his Apparent Successor: after which it ceased to be used as a Name of the Imperial Family and Blood, and became Honourary in the Emperours, joyned with *Augustus*, and in their designed Successors single by it self. The *Caesar* was created sometimes by the Emperours Verbal Designation, sometimes by Letters Patents, or otherwise. The Ensign of their Dignity was a Purple Robe with Gold, to which a Coronet was after added, and then also put on by the Hands of the Patriarch in a solemn and religious manner. Sometimes one, sometimes more were created, as it pleased the Emperours. Sometimes they had parts of the Empire assigned them to govern, and were often joyned in Rescripts with the Emperours themselves, as is to be seen in the Imperial Constitutions. Yet, though they were partners in the Government, were they Subjects, not equal in Dignity and Power, and might be degraded by the Sovereign Authority. They are frequently styled in Coins and Laws *Principes Juventutis*, and more ordinarily *Nobilissimi Caesares*. Yet was there another Rank or Dignity next to them in place, which had the Style and Title of *Nobilissimus*, and gave expectation of the Title of *Caesar*, as *Caesar* did of *Augustus* or Emperour.

The Ensign
of his Dignity.

Sect. 2. four. The first we meet with that had this Honour were *Constantinus* and *Anabal-
lianus*, the Kinsmen of *Constantine*, who conferred it upon them, as lately was observ'd
out of *Zosimus*.

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The Senate.

3. That which held the next place in the State was the Senate, not in respect of the particular men which constituted it, but of the whole Body. Its Authority continued (for the most part) such as in the settlement of *Augustus*, but was sometimes streightned, and otherwhiles enlarged, (especially by the Emperour *Arcadius*) as the humour of the Reigning Prince inclin'd, who being Absolute, and having all the Authority both of Senate and People in his hands, their power was in effect but precarious. In an *Interregnum* indeed the Senate seemed again possessed of its ancient and paramount Privileges, and as the Supreme Power dispos'd of the Empire; and such persons as had ill managed it, when the Sword was on its side, it would censure.

Its Dignity.

Now at this time of which we write, it appears from the Laws (the best Testimony) that it was in great esteem and reputation with the Emperours. In their Constitutions they style it, *Amplissimus Senatus*, *Egregius Senatus*, *Florentissimus Cætus*, *Venerandus Cætus Senatus*, *Concilium Amplissimorum Virorum*, *Nobilior Curia*, *Nobilissima Curia*, *Splendidissima Curia*, *Senatus Orbis Inclutus*, and the like; and the Senators themselves they call *Proceres*, *Amplissimi Viri*, *Clarissimi*, & *Nobiles*. In their Constitutions or Orations the Compellation is, *Patres Conscripti*, & *Vestra Sanctitas*. And though *Nero* formerly so much disdain'd it, they reckoned themselves of their number, and the Senate to be part of their own Body; though the Sovereign and Absolute Authority resided in the person of the Prince, and he by virtue thereof might do matters without it; yet it made for the Dignity and Grandeur of the Roman Empire, that he should have so great and ample a Council to assist him, especially at the Reception and Audience of Ambassadors and Strangers. *Arcadius* was so indulgent to it, that under him the Senate of *Constantinople* exercised the same power as in the Commonwealth, declared publick Enemies, denounced War, and the like; but this was extraordinary, and fully in the Prince's power: otherwise he sent his Constitutions often to them, which were absolutely conclusive, and as it were to be registred in their Court. In other matters the Senate suggested, decreed, and framed an Order or *Senatusconsultum*, but the Emperour by his *Junctio* confirmed what was done. At this time we find by the Laws, that the Nomination of *Prætors* was in the power of the Senate. It regulated the payments made by its own Mem-

Vide Paratir. Tit. 2. lib. 6. Cod. Theod. de Senatoribus, & de Glebalis, & el Follium, septemve Solidorum Conlatione, & de Auro oblatitio.

Power.

bers, and the expences of Games, yet so, as what it resolv'd was referred to the Prince, who confirm'd it. Sometimes also the Emperours would allow it to purge it self, and make choice of such as were worthy to be its Members; yet so, as the Names of those they made choice of were by the *Præfēt* of the City to be brought to the Prince, and receive his Approbation. Moreover, Professors were chosen by the Senate, and when any Gift or Present was to be made to the Emperour by it, it was by Intervention of its own Decree. Its Officers who managed the business handled in it, were those called *Censuales* (from the *Census* or Tax they managed also) except in case of Citations, which belonged to the other Officer called *Princeps Officii*. But here it will not be amiss to mention what *Capitolinus* writes in the Life of *Gordian*, That it was the Custom, if the Commonwealth was in such danger, as constrained the Fathers to take such Counsels as were not fit to be divulged, then a secret *Senatusconsultum* was made; at the making and entering whereof, neither *Scribes*, publick Slaves, nor the *Censuales*, were suffered to be present, but the Senators themselves discharged all their Employments.

Vid. Tit. Cod. Theod. de Prætoribus L. 8, 9, 10, 12. &c.

Its Officers.

4. Of Senators, some by reason of the greatness of their Birth were fitted for the Employment; others merited it by having passed through the several Offices of the Palace and State; others were preferred by the Favour of the Prince. Some Senators were naked, neither of the rank of *Illustres*, *Speſtabiles*, nor *Clarissimi*, not furnished with any privileges of Dignity. Some lived at *Rome* or *Constantinople*, and others in the Countrey. The *Præfētus Urbi* was their Head, and by him alone could they ordinarily be judged in Civil Causes; from whom in some cases they might appeal, in others not. The Use of publick Horses and Waggon was allowed Them, which privileges were denied to most others. In Causes Criminal the Judge or Governour of the Province where a Senator lived, might take cognizance of the matter, yet not proceed to Sentence, but certifie the Prince, the *Præfētus Urbi* or the *Præfētus Pretorio*. The *Præfēt* of the City in the Suburbian Provinces, in this case was to take to his assistance five Senators, not at his discretion, but chosen by lot. Senators were privileged from several payments, to which others were obnoxious, as from that called *Aurum Coronarium*, from Quartering of Souldiers, and paying Toll in several cases. They were not to be rigorously examined, nor

Several sorts of Senators.

Their Privileges.

put to Torture, but in case of Treason and the greater sort of Crimes : but several Duties they paid, and were obnoxious to divers Burthens, except discharged by special Privilege, so as they were forbidden to make any long Travel without Licence and Approbation, lest the Revenue thence arising should be diminished: and so great was the Expence this way, that some got leave to resign the Dignity, although not in the days of *Constantine*, who made it his business to encourage such as he brought to *Constantinople*. (a) Among those payments was the *Follis* lately mentioned, called also *Glebalis Collatio*, and by many other Names. This was a Burthen of the Estate or Soil, not the Person; and therefore all their Lands and Estates were registred in the *Senate*. All such as received profit out of their Lands paid it, but very few being exempt, not the Emperours House it self, because he also went for a Senator, except he thought fit to renounce the Dignity. But such as had no Lands were not subject to it; they onely paid two *Folles*, or an inconsiderable summe: for of the Coin called *Follis* there were several sorts. Some also were exempt from this payment, as also from another lying upon the poorer sort, of seven *Solidi*. Besides these there was a fourth kind in Gold paid by Senators, called *Aurum Oblatitium*; yet to this they were not constrained; but it was freely given to the Emperour upon some notable occasion; as after his Victory and Overthrow of some Tyrant, in way of an Acknowledgment. And from this was different another sort of Present they made, which is called *Oblatio Votorum*. But the three former sorts of payments, viz. the *Glebalis Collatio*, the two *Folles*, and the seven *Solidi*, remained till the time of *Justinian*, and then by him were quite abolished; so that the Laws concerning them, or the second Title of the sixth Book of *Theodosius* his Code, is omitted in that of *Justinian*.

The Consistory.

The Members of it.

The several Degrees of Persons in the Empire.

Patricii, who.

5. This was the great Council of the Emperour, who besides it had his (b) Consistory, or Privy Council, as we may term it, wherein were handled and determined all State-Affairs, and such private matters as by way of Petition or otherwise came before the *Prince*. The Members of it were of great Rank and Employments, Illustrious persons, who had the privilege of speaking and debating before the Emperour; such as were the *Præfetti Prætorio*, the *Quæstors*, the *Magister Officiorum*, the *Comes Sacrarum Largitionum*, and *Comes Rei Private*, properly called *Comites Consistorii*, or *Consistoriani*. There were others which had the Name also of *Comites Consistoriani*, but in an inferiour Rank, who were not styled *Illustres*, but *Specstabiles*; and were not admitted to speak and debate in Consistory, but onely (c) permitted to be present at Debates, and hear the Emperour's Determination. These were also of the first Rank of *Comites*, or *Comites Primi Ordinis*, but here of the second sort of Dignity. For to make our way to what we must shortly speak of the several sorts of the publick Ministers and Officers, the Reader must know, that under the *Roman Princes* are to be observ'd five several Degrees or Ranks of Dignities, viz. *Illustis*, *Specstabilis*, *Clarissimus*, *Perfectissimus*, and *Egregius*; these were not in use during the Republick, but were afterwards introduced for distinction of persons, which is ever greater under Monarchy than in a Commonwealth. The first said to have been in Use, was that of (d) *Clarissimus*, given to Senators in the time of *Tiberius*; though from *Tacitus* it appears that some of the *Roman Knights* or *Equites* had the distinction of *Illustres* or *Inlustres*, much about the same time or in the days of *Augustus*. At first *Clarissimus* seems to have been more Honourable; but now about the Reign of *Constantine*, when they were made more distinct Attributes of Dignities, *Illustis* became superior, as is evident from the Laws. And such was the fortune of *Clarissimus*, that not onely *Illustis* gave it the go-py, but afterward *Specstabilis* justified in betwixt them. *Illustis* at length became the Attribute of eleven several sorts of persons: The first were the *Patricii*, the highest Rank in the Affection of the *Prince*, next the *Nobilissimi*, and instituted (e) by *Constantine* the Great; I say, in the Affection of the *Prince*, to whom they were accounted as Fathers, but not as to the Dignity of State, for so they were inferiour to the *Consuls*, being rather to be esteemed a Rank or Order, than a Dignity; and having no Jurisdiction, being no Magistrates, were ever Subjects; whereas the Emperours themselves disdained not to bear the Office of *Consul*. The Rank of *Patricii* was joyned with several of the Dignities, and when so found, gave the person precedence above all others, except the *Consul*, the ancient and most sublime Minister in the State.

6. To defer a little the enumeration of the rest that had the Style of *Illustres*, as of the other Degrees of Dignities, till we come to describe the Nature of their particular Offices and Employments, and first speak of the more general Ranks and Qualifications. The Author of the (f) *Life of Constantine* tells us, that to prefer the more persons, he invented new Honours. There were three Ranks of *Comites*; which

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(a) Vide Paratitlon. 1. 2. Supra. & Juratum in Miscellaneis, ad Symmachum Lib. 4. Epist. 62.

(b) Consistorium Suidæ dicitur ov. 5. v. 1. Foran ab hoc differebat Auditorium, in quo causas privatas tantum tractari consuevit existimat Gutherius Lib. de Offic. Domus Augustæ 1. c. 17.

At vide omnino Gothof. in L. 5. de Fide Testium &c. Cod. Theod. Lib. 11. Tit. 30. Et quod Consistorii Principis dicti fuerunt Monitores, et de Juratum in Miscellaneis ad Symmachum Epist. 7. Lib. 4.

(c) De eorum Privilegiis vide Gothofredum ad L. un. qui Conductores. Cod. Th. lib. 10. Tit. 5.

(d) Pancirolus in Notitiam Imperii C. 2. De Centenarii Dignitate Perfectissimatus, inferiori, Egregiatu vero superiori, si qualis fuerit.

Vide Commentum Jacobi Gothofredi in L. 7. de Agentibus in Rebus. Cod. Th. Lib. 6. Tit. 27.

(e) Zosimus. De ista controversia, utrum Patricius an Consul præcesserit, Vide Jacobum Gothofredum in Tit. 6. Lib. 6. Cod. Theod.

(f) Lib. 4. C. 1.

Three Ranks of Comites.

Sect. 2. whether first instituted by him, or not, began about his time to be remarkable. The Emperours at the beginning of the Monarchy had such about them as they called their *Comites*, or *Companions*; as also *Amici*, or *Friends*; as had of old the *Eastern Kings*, from whom some think this Custom transferred. For King *David* had his *Friend*, or *Companion*, *Daniel* was the Companion of the *Babylonian King*, and honoured above all his *Friends*; and in the Kingdom of *Syria*, *Ptolomy*, *Nicanor* and *Gorgias* were the Kings *Friends*. At first *Comes* and *Amicus*, Companion and *Friend*, were in effect the same; and according to their Interest and Endearment with the Prince, they were distinguished into several Ranks; as there is no man but hath those *Friends* that are more intimate with him than others are. Afterward they became distinct, (though *Friends* still were often called *Companions*, and *Companions* *Friends*) the *Amici* or *Friends* being taken for the Intimates or *Privadoes* of the Prince, his Favourites and inward Bosom-friends, who knew his heart; as *Ephesion* was the friend of *Alexander*. The *Comites* were the *Companions* and *Assistants* in his Expeditions and Labours, as was *Parmenio* to the King; and in all Encampings had the next place to the Pavilion. Both of these sorts were admitted to his Consultation; and afterward known by the joynt and common name of *Consistorians*. Of both before the time of *Constantine* there is frequent mention. The Emperours Attendance and his Council was called *Comitatus*; and in some years the name of *Comes* grew so common, that it was in a manner given to all Officers and Magistrates that gave attendance at the said Sacred or Privy Council, and thence afterward extended to all that were Overseers in any matters of State. So that *Suidas* defineth *Comes* to be the Ruler of the people, as *Cujacius* observes, whose Opinion also it is, that before the time of *Constantine* the Great, it did not signify any Title of Honour or Dignity; but he, when he had altered many things in the Empire, and endeavoured to oblige many persons, erected the *Comes* into a Dignity, and made the threefold distinction, or three Ranks of *Comites* lately mentioned. He grounds his Opinion upon the relation of the Author of *Constantines* Life, who having said, that no man was denied that asked anything of that Prince, nor any mans Expectation frustrated that expected any thing of him (for some he enriched with Money, others with Lands, many he dignified with the *Senatorian*, many with *Consular* Honour, and many he preferred to be *Duces*;) adds, *Some were made Comites of the first Rank, some of the second, and others of the third.*

Whether first introduced by *Constantine*.

7. Most Learned Men follow *Cujacius* herein, but some there are who will not have these words interpreted, as if he (*Constantine*) had then begun the division by distinguishing his *Comites* into these Ranks; urging that these words no more enforce this Conclusion, than those that go before do infer that he instituted the Dignity of *Senators*, *Consuls*, and *Duces*. But that which follows seems sufficiently to confirm *Cujacius* his Interpretation: For that Writer further tells us, that *Numbers by this means obtained to be Clarissimi, and other Honours*: for, that he might confer Honours upon many, he invented various Dignities. They cannot instance in any Author wherein certain mention is made of this Dignity, before *Constantines* time. As for what a very Learned man of our own cites of *St. George*, being called a *Comes* by Dignity out of the Rituals of the *Greek Church*; as also of one *Patricius* a *Comes*, out of the Life of *St. Ademon* in that Church. The same exception lies against these *Greek Rituals* and *Lives*, that he himself brings and presses against *Zonaras*, and other *Greek Historians* in other cases, viz. That living in later times, they wrote in the Phrase and Language of their own Ages, and used Terms of more modern times to express things ancient, which they conceived like to those with which they themselves were acquainted. That before *Constantines* time these three Ranks or Degrees came to be settled and distinct, it's no way probable: for he (as the Author of his Life writes) invented several ways to dignify those that were of different Merits. Although there are said to be but three Ranks of these *Comites* or Counts; yet this is to be observed, that the same Rank according to the Quality of the Office to which it was applied, had different Degrees. Of the first Rank were the *Comites Consistoriani*, but not they onely, for Inscriptions are found *Comes Ordinis primi*, and *Comes Ordinis primi intra Consistorium*, given at once to the same person, as Titles received at several times. The grand Officers of the Empire were also of this first Rank, as the *Magistri Sacrarum Largitionum, Equitum, Domesticorum*, to whom thereupon the Titles of

Several sorts of the first Rank.

de officio Domus Aug. Lib. 1. c. 17. Tres fuerunt species Comitum primi ordinis. Prima, quæ una cum Administratione competebat, ipsique Dignitati tempore Administrationis competebat. Secunda, quæ vacantibus conferbatur pro premio: i. e. postquam Administratione vel Officio, aut Professione quis functus fuisset. Tertia, quæ ab otiosis & inertibus Patrio, vel Gratia impetrabatur. Vide Gothofr. in Cod. Tit. 6. Tit. 18.

A. D. 337. Selden, Titles of Honour. Part 2. Ch. 1. Marcell. Ch. 3. 38. &c.

174. Suetonius in vita Tituli. C. 46. & Lucianus in vita Alexandri Severi

ad l. un. de Comitibus. Cod. Justin. Lib. 12. Tit. 11.

Lib. 4 C. 2.

Κομιστῶν δὲ οὐ μὲν πρῶτον τάγματος ἦν οὗτος, οὐδὲ δευτέρου, οὐδὲ τρίτου.

Selden ubi supra.

Διασημασμένων δὲ αὐτῶν καὶ ἑτέρων παλαιῶν ἄλλων ἀξιωμάτων μᾶλλον ἄλλοι μετέχοντες, οἷς γὰρ τὸ πλεονάσας τιμῶν διαφέρει εἰς τοὺς βασιλεὺς ἀξίας.

As, whether by *Clar* was meant the their Apparent before *Adrian* his Adopting of *Adrian* Titus.

Vide Sidorum ubi supra. Comitatus. ad Cod. Fr. Lib. 6. Tit. 13. Guibaudum

Secr. 2. *Magistri & Comites* were promiscuously given; these same being also styled *Comites* A. D.

Sacrarum Largitionum, Equitum & Domesticorum. Of this first Rank was also the Emperour's Chief Physician, known by the Title of *Comes Archiatrorum*, and so were also sometimes those that were under him: so that being a *Comes* of the first Rank, did not equal one in Place and Degree, with all others of that Rank; for of them some were *Illustres*, some *Spectabiles*, and others Lower, according to the Dignity in which their Offices placed them. Of the second Rank of *Comites* were some Governours of Provinces, and such as had the Government of Cities only, and with the former are those sometimes the same, who are styled *Duces*; which Name being first taken from Employment, and not so Titular as this, we shall more properly speak to anon. As for the lowest or third Rank, it took in all the rest that bore the Title of *Comites*; which, as some have observ'd out of *Suidas*, was of so large extent, that any Governour was signified by it; as also they take Notice that it is interpreted in *Hesychius*. This was the most comprehensive and usual Title, and the lowest Rank, as trite and thridbare, as ours of *Esquire*, or the *Sieur* amongst the *French*. These general Dignities and Styles premised, as was necessary (which will be more evident and cleared from the Confusion in which most Authors involve them, by that which follows) we come from the shadows to the Substance, to the Description of the several Offices of Magistracy, and Military Employments which, with what went before, composed the whole frame of Government.

The Consul.

8. Here we must begin with the *Consuls*, that Ancient Officer, and, as we said, Part 1. B. 2. the most sublime Minister of the State; the greatest Dignity still at this time, next the *Nobilissimus*. And what we have formerly observ'd concerning *Consuls* ordinary and extraordinary, *Suffecti*; or *Honorary*, must be remembered here. And that whereas formerly the Office of *Consuls* was Annual, *Julius Caesar* made several in one year, for three, two, or one Moneth; which gave occasion to that Distinction. The same Distinction continued after *Constantine* his Days, as is evident by a Law of his Son *Constantinus*, wherein mention is made of ordinary *Consuls*, be-

*Kōmīs interpre-
tatur "Ἀρχαῖος."*

*De Prætoribus
&c. Cod. Th.
Lib. 6. Tit. 4.
L. 12. ita ut*

*adjunct decem
et Procerum nu-
mero, qui ordi-*

*narii Consules
suerint. De Ma-
gistratibus Po-
puli Romani*

C. 9.

Vide Parati-

tion Tit. 6. Lib.

6. Cod. Th. &

LL. ibi notata;

de Consul.

Principum. L. 1.

L. 1. de Expen-

sis Ludorum.

Cod. Th. L. 15.

Tit. 9.

(a) Cod. Th. 6.

Tit. 6. l. 1.

Diversa Cul-

mina Dignita-

tem Consulatus

cedere evidenti

auctoritate de-

cernimus &c.

(b) Præfectorios

& aliarum Dig-

nitarum viros

præcedit, uni

tantum cedens

fulgori, quem

interdum etiam

à nobis constat

assumi. Cassio-

dor. variis-

rum lib. 6. C. 2.

(c) Neminem

ad sublimem

Patriciatūs

Honorem (qui

cæteris omnibus

anteponitur) af-

cedere libet,

nisi prius, aut

nors potiaturs,

aut Præfectura

Prætorio &c.

Cod. Justin. lib.

12. Tit. 3. L. 3.

de Consulibus

whom &c.

Annual at this time, though not that it was so made again by *Constantine*, as *Lip-
sius* hath written. All the ancient Honours were still allowed it. It's termed no-
less than *Divinum Premium* by the Emperour, and by Writers ordinarily *Fastigium*,
and He *Potissimus* Magister. When *Consuls* were created, their Names were still pu-
blished abroad by Messengers sent on purpose throughout the Provinces. From
their Names the Characteristical Note of Years was taken, as formerly; and with
them the Edicts and Constitutions of Princes were subscrib'd, so that without them,
by a Law of *Constantine*, they are declared null and of none Authority. When
their Names were read, the Readers, at the mentioning of them, shewed Reve-
rence. To them it was lawful to give the *Sportula Aurea*, and the *Diptycha* made
of Ivory, by a Law of *Theodosius* the First, and to none other. The *Sportula* was
a Present wont to be made by such as entred into Magistracy, to their Friends,
which might be in Silver to others, but to none but the ordinary *Consuls* in Gold.
And *Diptychs* were Tables to write in, consisting of two Leaves, in which being
of Ivory, as appears from *Clandian*, the Names of *Consuls* were wont to be writ-
ten and sent abroad; so that only to them it was lawful to make a Present of that
Matter; *Diptychs* of other Materials it being permitted to give to any. They
wore still the *Trabea*, or Robe woven with Gold and Purple. And as for their
Place and Precedence, *Gratian* by a (a) Law declares, that the other highest Digni-
ties give Place to them in the *Senate*, whatever Matter be handled therein: so as
the *Consul* should sit in the first Place, and first give his Vote; although the *Præf-
ect* of the City, he who was the chief and the Head of the *Senate* were present, who
preceded, and Voted before all besides him, and at length by a *Novel* of *Justini-
an*, had Place given him before *Consuls* and *Patricians*. That the *Consul* preceded
the *Patrician* is evident from *Cassiodorus*, besides the Law now mention'd, who in
his Forms of Charters placeth that of the *Patrician* next after that of the *Consul*.
And in his Patent or Charter it is told the *Patrician*, that he (b) precedes the *Præf-
ect*,
and all other dignified Persons, giving only Place to that Lustre, which the Prince him-
self sometimes assumes, which was no other than the *Consulship*. This seems to be
contradicted by a (c) Law of the Emperour *Zeno*, wherein it is said, that the Ho-
nour of the *Patriciate* is placed before all others; and order is taken that none be
Preferred to it, but such as have before passed through the Dignities and Offices of
Consul, *Præfectus Prætorio*, *Præfectship of the City*, *Magister Militum*, or *Magister*
Officiorum. But this doth not Evince, that in the Dignity of the Common-wealth
it preceded the *Consulship*, but only in the private Affection of the Prince, to

His great Dig-
nity.

whom &c.

Sect. 2. whom they that were *Patricii* being so intimate, as to have the Reputation of his Parents, he would have none obtain this Honour, but such as had passed through the highest Employments; For the contrary, besides other Testimonies, is most evident from *Cassiodorus*, who was contemporary with *Zeno* himself.

9. Thus great was the *Consulship*; but after all, it's Greatness consisted in Noise, in Name, in Place and Cloaths, so that in *Cassiodorus* his *Formia* it may very well be termed *Fulgor*; it's Lustre lay more in the Feet than the Hands or Head, for which Members there was very little occasion: The great and weighty Burthen sustained by the *Consul's* vast Shoulders was the Gown and coloured Robe he wore; little Employment for his Eyes, but to behold with Contentment the twelve *Lictors* going before him, and bearing the *Fasces* and Axes very gracefully; especially since of late Laurel was added to them, which commonly was used only in Triumphs: For his Hands, but to carry Majestically the Ivory Rod: For his Head, but to consider how best to fill and become his *Curule* Chair, and to have his Robes and Ornaments fit well upon him. The Emperours since the Monarchy, by assuming, both his Power and that of all other Magistrates in a manner, had permitted him to take his Ease. Instead of Commanding Armies, and having the great Management of Affairs, both at home, and in the Provinces, how do we find him now spending his time? Even at home in his own House, entertaining himself and his Friends, except he would please to go in State and shew himself in the *Senate-House*. Only you might see him busied a little (especially at his first Promotion) in (a) Manumissions, or setting Slaves at Liberty, a Privilege still indulged him, and that as it were his Solemnity and peculiar Employment: perhaps in exhibiting the publick Games and *Spectacula*; and then as a Reward of his (b) Merits, it was lawful to present him, and him alone with Gold; and Reason too, considering that he found the Horses in the *Curule Races*. Very little more do we find the *Consuls* did at this time, scarcely so much as to sit as Judges, and decide Causes, assign Tutors, or to let out the Customs and publick Revenues; which though they might do under (c) former Emperours, yet we shall now find in other hands. And whereas formerly they presided and regulated the Proceedings in the *Senate*, now that Work seems to be discharged by the *Præfect of the City*, who was at this time the *Præsul*, or Head of that Body. Though considering what manner of man formerly the *Consul* was, and as his Vicegerent, out of good Manners he might give him Place. In Conclusion: however for the Ceremony and Pageantry of the Empire, the *Consul* was still preserv'd in Being, yet by Degrees he dwindled to nothing, and about *Justinian's* time ceased to be; so little Notice was taken of him in the Reign of *Theodosius* the Younger, that when the *Notitia*, or Survey of all the Dignities, as well Civil as Military was composed, he was not so much as mentioned therein; having nothing of Business or Employment worth the mentioning. As for the *Honorary Consul*; he was also in Being in the time of *Zeno*, as appears from the (d) Law of that Prince, but now mentioned; and was bound for his Honour to give an hundred Pounds of Gold toward the Repairing of the *Aqueduct* of the City, as the Annual, or ordinary *Consul*, by the next preceding Law of *Valentinian* was bound to do, instead of the Largesses they formerly (to no purpose) gave to the People. Amongst the Tomes of *Cassiodorus* there is extant a Charter besides that of a *Consul*, for creating a *Consularis*, whose Office is not termed *Consulatus*, but *Consularitas*. This *Lipsius* concludes to have succeeded in the room of the *Suffectus* or extraordinary, introduced by *Julius Caesar*, and must have been merely Titular, or Honorary: but enough of the *Consul* little more than a Name; now we come to both Name and Thing.

10. The chief Magistrate and Minister of the State, and which had the first Place amongst the *Illustres* (next to the *Patrician*, who was no Magistrate as such) was the *Præfectus Prætorio*. He took his first Denomination from the *Prætors*: for all Magistrates (as we have already (e) shewn) especially Military, were called *Prætores*; and the General's Tent, or Pavilion, *Prætorium*; as also the Guard that watch'd before it, *Prætoria Cohors*; and the Admiral's Ship *Prætoria Navis*; hence he that had the Charge of the *Prætorium*, or lodging of the Prince, and commanding the *Prætorian Bands* that guarded it, was named *Præfectus Prætorio*. The *Prætorian* Souldiers had first their Pay augmented by *Stipio Africanus*, who gave them half as much more as others receiv'd; but *Augustus* by virtue of a *Senatusconsultum*, ordered them double Pay, and five hundred *Drachms* after they had served sixteen Years. Their number was ten thousand, divided into ten Companies or *Cohorts*, under so many *Tribunes*. They were Men of more than ordinary Stature, and distinguished by better Arms and Habit from the ordinary Souldiers. These were after-

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Ex *Liberio* *Sidenio* *Apolinarii*, quæ vide apud *Gothofredum* *supra*.
Pinge vastos humeros vario colore *Palmatas*, validam manum, *victorialis* *scapione* nobilitatam, *Lares proprios* etiam *Calceis Auris* egrediens. *Sclam* *Curulem* pro sua magnitudine multis gradibus enisus ascende, ut in otio subiectus merearis, quod nos per maximos Labores assumimus Imperantes. Rem *victoriarum* agitis, qui bella nescitis; nos *pro* *ante* *Deo* *Regimus*, nos *Consulimus*, & *vestrum* *nomen* *annum* *designat*.

(a) *L. 13 de infirm. his que sub Tyrannis. Hac Consulatus solennitas dicitur. Officium celebrabant cum id celebrabatur.*

(b) *L. 2. de spectaculis. Cod. Theod. Lib. 19. Tit 5.*

(c) *Spartianus in Antonino. Ovid. 2. de Pont.*

(d) *Quoniam in hoc Gloriosissime huic urbi, quæ caput Orbis Terrarum est, omnifariam credimus consulendum. unusquisque possit hac Honorarii Consulatus insignibus principali Munificentia decorantur 100 Libras*

Auri ad refectendum Aqueductum Publicum ministrare censemus, ad similitudinem eorum, qui per Annale tempus Consulatum Editione Alimur gloriantur.

(e) *Part. 1. Lib. 2. C. 4. Pag. 4.*

His Place
merely Titular.

The Honorary
Consul.

The *Præfectus*
Prætorio.

His Original.

Sect. 2. afterward succeeded by three thousand and five hundred of the most choise *Armenians*, divided into nine *Scholes* (as they termed them) or Parties. Over them the *Præfæctus Prætorio* had absolute Command, and by his Advice the Prince managed all his Matters : for he was that to him which to *Romulus* was the *Tribunus Cælerum*, the *Legatus*, to the *Consul*; the *Quæstor*, to the *Prætor*; and the *Magister Equitum* to the *Dictator*. They obtained by degrees such Authority, that not only had they the Administration of Arms and War, but receiv'd Appeals, and handled all Affairs of the Empire.

11. *Augustus* being Author of this Magistracy created first one, and afterward two *Præfæcti Prætorio*, according to *Mecenas* his Model; that if need were the one might withstand the Traiterous Designs and Attempts of the other; and they were to be of *Equestrian* Rank; but *Tiberius* gave the whole Command to *Sejanus*, who perswaded him to unite the *Prætorian* Souldiers, formerly quartered up and down the City, in one Camp; that they might be weaned from the Luxury of the Place, be readier upon all Occasions, and by their Union in one Body strike the greater Awe into the People. Hereby this Office, moderate before, received great Advantage. In the Camp the *Præfæcti*, at first, handled no Causes; but only took Care of what concern'd War; for *Augustus* committed Appeals in Law-Suits of Citizens, to the *Prætor* of the City, and of such as lived in the Provinces, to Persons of *Consular* Dignity; of which Rank he set one over the Affairs of each Province. *Nero* ordered Appeals to be made from Judges to the Senate. *Adrian* was wont, when he took Cognizance of any Process, to call to him both *Senators* and *Equites*; and according to the Result of their Debate, gave Sentence, no mention being made of the *Præfæcti*. *Mærcus Antoninus* was the first that used their Advice and Authority in Law-Matters. *Commodus* then, that he might more freely follow his Pleasures, committed the Care and Management of all to *Perennius*, his *Præfæct*; and so by Degrees Judgments and Appeals were translated to them. Some Princes, following the Example of *Augustus*, made two *Præfæcti Prætorio*. (a) *Commodus* had as many after the Death of *Perennius*, and sometimes three, finding it necessary to lessen so great a Power by putting it into more hands. When the *Barbarians* made so frequent Incursions, succeeding Princes assigned *Præfæcti* to certain Regions. For under *Decius*, *Vectius Aquilius* was *Præfæctus Prætorio* of the East; under *Valerian*, 2, *Vicarius* and *Ragonius Clarus*, of *Illyricum* and *Gall*; but these were not certain, nor perpetual, but according to the Necessity of the Times, and the State of War, receiv'd and exercised their Power. And the Power of the ordinary *Præfæcti* (the common number whereof towards *Constantine's* time was two, as it seems from *Zosimus*) was exceeding great; even so great that (b) (as one well observes) through the Negligence of some Princes, they made, and might be made Empereurs, as they pleased. For having Authority, both over Military men, and in all things Civil, they obliged and consequently, had all sorts of Persons at their Devotion; the *Præfæct* was esteemed a sort of Prince, without Purple; in this respect only to differ from the Emperour himself.

12. *Constantine* therefore had reason to be jealous of their extravagant Power, and to correct so great an Error in Politie, as the former Princes had committed. This he did by taking away their Authority in Military Matters, which he transferred upon his *Magistri Militum*, and by continuing the number of four, as he found them under the four Princes that preceded him, whereof each (as he said) had his *Præfæct*. Notwithstanding this, they ever retained great Authority. They published their Edicts, which were perpetually to be observ'd, except the Prince repealed them. They commanded the Governours and Judges of such Provinces as were under their Care; punished them, if faulty; removed them, if unfit; paid them their Salaries due out of the publick Treasury, and received Appeals made from them; but from the *Præfæcti* lay no Appeal. Some things the Judges of the Provinces could not do without their Order, and (c) *Cassiodorus* (who in his *Formula* describes their Office) hints something, as if afterward they received Authority over Souldiers also in part, and had Power of fining, as far as the Sum of fifty Pounds of Gold. They had the Charge of the *Armona*, or Provisions for the Army; took Care of the Ways, and of the Tents. The chief Management of the Revenue was in them; and in the collecting and exacting thereof, this Course was afterward observed, which is prescribed by (d) *Justinian*. The Prince having consulted and signified how much Money, or what Supply he should want for the follow-

(a) *Nullus est Miles de foris à sua Autoritate præfæctis, excepto officiali Magistri Militum. Credo & vel illis aliquid Antiquitus cederet, qui videbatur pro Reipublica tractare.* (b) *Novel. 128; quam Consul omnino de modo Collationis.*

Sect. 2.

ing year, the *Præfetti Prætorio* made the Distribution thereof in the Month of July, or August, according to the Value and Wealth of the several Provinces, and in their several Offices or Courses it was Registered, what Proportion each Country or City should pay, either *in Specie*, or in Gold; and of this how much was to be brought into the Treasury, and how much expended in the Province. An equal Cess being thus made, Copies were sent from the Offices of the *Præfetti* to the Governours of the Provinces, at the beginning of every *Indiction*, and by them published in the Cities under their Authority, within the Months of September and October, in which the *Indictions* or Impositions of Taxes ordinarily began. In case they observed not the Rule præscrib'd, they made good to the publick so much as it was thereby endamaged. Now the Burthens of the Subject, or *Provincials* were, either ordinary, or extraordinary: and usually they upon whom the former sort lay any thing heavy, were excused from the latter: usually, I say; but not always; when by Reason of a great War, or for other Reasons the Emperours were at exceeding great Expence, as is evident from the Laws.

Tribute, what properly.

13. One constant Charge consisted in Tribute, properly so called; another in payment of Cloths, or Gold and Silver. By Tribute the Laws mean the several sorts of the *Annona*, as Corn, Wine, Oyle, Fodder, and the like, such as we may term *Esculenta* and *Poculenta*, which are also called *Fiscale Debitum*, and sometimes might be redeem'd by Money. This being an Annual payment, the *Præfetti* had the Charge thereof, and took Care, that the several things should be disposed in their peculiar Storehouses, to be reserv'd for the Maintenance of the Army, or other Uses. For it's easie to observe in several Ages and Countries, that Tributes and Rents were formerly wont to be paid in kind; and here in *England*, amongst the rest, even for a considerable time after the *Norman Conquest*. Therefore as some Princes have heaped up great Treasures of Coin, so others vast Quantities of Provisions. (a) *Mesithens* the *Præfectus Prætorio*, and Father in Law of the Emperour *Gordian*, was so industrious for his Master this way, that in the greater Cities upon the Borders, he caused to be laid up so much Wheat, Vinegar, Barley, Lard, and Straw, as would maintain the Army an whole year; and in the lesser, Provision of this kind for forty, thirty, and at least fifteen days, but in some of them for two Months. (b) *Severus* when he died, left such a stock of Corn, that for seven years together, every day seventy five thousand *Modii* might be spent, and so much Oyl as was sufficient for the space of five Years, both to serve the City, and all *Italy*, *Trajan* also took Care, that there should always be a Stock of Corn at *Rome* to serve, if need were, for eight years. Now for this supply several Provinces of Course contribute several Things. The *Leptitani* in *Mauritania* furnished Oyl, the *Galls* Horses, and the *Spaniards* also, especially they of *Bætica*, of which in those times they had an excellent Breed, besides Cloths, Oyl, Fat and Lard. In *Italy* the *Lucani* found Hogs, and the *Bruttii* Oxen; the *Sicilians*, as *Pancirolos* observes, paid the tenth part of their Wheat, which amounted yearly to eight hundred thousand *Modii*, and if need was, were bound to add another tenth, for which they receiv'd Satisfaction out of the Treasury; as also a fourth, if Necessity urged; for *Sicily* of old was esteemed the Granary of *Rome*, till such time as *Aegypt* was subdued, which in after times paid the fifth part of their Fruits, for which *Constantinople* receiv'd eight Millions of *Medimni* of Wheat yearly: but yet what here is said concerning such Nations and People their furnishing such and such particular things, hath rather Relation to the beginning of the Empire; for as appears by *Theodosius* his Code, the Princes that succeeded *Constantine* much regulated and altered these Payments, whereof some were ordinary, and some extraordinary, as the Occasions and Wants of the State were urgent.

What several Countries furnished.

14. However, they were all under the Care and Management of the *Præfetti*, who also had the Charge of receiving Clothes for Souldiers; the manner of furnishing which, was various in the several Countries; but generally one was Exact for every twenty or thirty Acres, or sometimes according to the Poll; or else Gold in the room of it. Besides these, they not only look'd to the Collection of the Extraordinary Impositions (as we said) as also of Tolls, Imposts, and other things too tedious here to relate, but could Impose Extraordinary Charges and Services in some Cases; and the *Navicularii*, or those who Transported the Provisions, were by them Governed. They granted leave to make use of the *Cursus Publicus*, which none of the Greater Officers, except the *Magistri Officiorum*, could do. At their Creation, the Prince of old Girded them with a Sword, as the Ensign of their Office. At their first Institution they could not be *Senators*, being only of the *Equestrian* Rank, lest they should grow too Great. *Alexander*, the Emperour,

A. D.

337.

Vide L. 2. Cod. Theod. de distrahend. pignoribus, lib. 11. tit. 9. & L. ult. c. Justin. lib. 4. T. 46.

(a) Cuius vitæ tanta in Republica dispositio fuit, ut nulla esset unquam Civitas limitanea

potior, quæ non posset exercitum Pop. Rom. ac Principem ferre; quæ totius anni in

Aceto, Frumento & Lardo atque Hordeo & Patis condita non haberet: majores vero urbes.

aliæ 30 dierum, aliæ 40, nonnullæ 2 mensium, quæ minimum 15 dierum.

Capitolinus in Gordiano tertio.

Sportianus in Secretario R. instrumentaria quam minimam spererat; ita consulit, ut cæcederent: & sic ita 7 annorum canonem P. R. relinquere.

In Notitiam Imperii Orientis, cap. 5.

De hac re, vide illius Cod. lib. 11. tit. 9.

L. 1. & Tit. 17, 18.

L. L. 7. 8. de extraordin. & Ammian. Lib. 17.

Señ. 2. first added that Dignity, let **Senators** should be judged by those that were below **A. D.**

their Orders; and so they came to be styled *Clarissimi*, and afterwards *Illustres*. They rode in Gilded Chariots, drawn by four Horses, accompanied with the shouts of the Publick Cryers, and Lucky Acclamations of the People, who styled them Fathers of the Empire, and Exhorted them to demonstrate themselves really such. The Princes honoured them also with the Title of *Fathers*, as with those of *Magnitudo*, *Culmen*, *Amplitudo*, *Præcella Magnificentia*, *Celsitudo*, *Excellentia*, *Sublimitas*, and the like, beginning their Letters, *Fave Hypate Charissime nobis*, and concluding, *Divinitas te servet permultos annos Incolumem, Parens Charissime*. Answerably, their Seat was called *Sublimissima* and *Excelsa*. Their Privileges were great, and their Stipends large; for *Justinian* allowed the *Præfekt* of *Africk* an hundred pounds of Gold yearly, which some compute to have been about nine thousand Sterling. These things abundantly are Evident from the various Constitutions of Princes. And thus much in general of their *Præfekt Prætorio*.

15. In particular, He of the East was most Eminent, both for number of Provinces, and Authority. Now we must know, that the District of every *Præfektus Prætorio* ordinarily included several *Diœceses*, and each *Diœcese* several *Provinces*. We say, Ordinarily; for several (a) Examples Convince us, that sometimes a *Præfekt* had but one *Diœcese*, which was no other than an (b) Union or Collection of several Provinces under one Administration, or Government. But the *Præfekt* of the East had under him (c) five *Diœceses*, viz. that of the *East*, strictly so called, *Ægypt*, *Asia*, *Pontus*, and *Thrace*. Over which, as his Deputies, were set so many of the Greater Provincial Officers. Of these, the *Comes* of the *East* Commanded fifteen Provinces; the *Præfekt* of *Ægypt* six, the *Vicar* of *Asia* seven, the *Proconsul* of *Asia* other three, the *Vicar* of *Pontica* eleven, and of *Thracia* six; all which made up eight and forty Provinces, as in the *Notitia* of the Empire is expressed. Under his (d) Command were the several Fleets of the *East*, which (as in the other Parts of the Empire) served for conveying Provisions for Defence of the Borders, and clearing of the Seas and greater Rivers of Pirates, and by some are reckoned eleven in number. Amongst these were Eminent that called *Classis Selenca*, Instituted (as some think) by *Constantinus*, after he had fixed his Seat at *Antioch*, and with great Charge had made an Haven on the Shore of the Syrian Sea, called *Portus Selenensis*; though others think it the same with that of *Selencia*, in the River *Orontes*. There was one also in the *Euxine* Sea, consisting of forty Vessels: a Third was ordained by *Trajan* in the Red Sea: a Fourth belonged to *Alexandria*: a Fifth Cruised on the *Carpathian* Sea. The *Notitia* reckons up six more in *Danubius*, besides one belonging to those that served in the Treasury, or the *Thesaurenses*. This *Præfekt* was Resident at Court in the time of *Justinian*; the Imperial Seat, or *Constantinople* being within his District. Of his Arms, or the Ensigns of his Authority, the *Notitia* makes not mention; but doubtless they were near the same with those belonging to the *Præfekt* of *Illyrium*, viz. a Book of *Mandates* erected on a Table covered with a Carpet, betwixt four burning Wax-lights; on one side the Images of the Princes (which they as well as other Civil Magistrates of Provinces, but not Military, had born before them) and on the other side, of five Women holding Vessels full of Gold, and representing his five *Diœceses*.

16. The second *Præfektus Prætorio* mentioned in the *Notitia*, was he of *Illyricum*, placed by *Constantine* in the Northern Parts. In Ancient Times, all the Tract reaching from *Danubius* to *Italy*, and now called *Sclavonia*, was taken for *Illyricum*. (g) *Zonaras* writes, that the name of *Illyricum* being formerly given to various Places, became afterwards peculiar to the upper Continent above *Macedonia* and *Thrace*, between *Hæmus* and *Rhodope*, and after passing these Bounds, was extended beyond those Mountains, as far as the *Euxine* Sea. In the time of *Claudius* the Second, it contained the *Thracians*, *Myrians*, *Dalmatians*, *Pannonians*, and *Dacians*. What Countries *Constantine*, after the new Division laid to it, we have already seen out of *Zosimus*. *Jornandes* divideth it into eighteen Provinces; *Sextus Rufus* into Seventeen; but the Empire coming to be divided amongst succeeding Princes, *Illyricum* also became twofold, viz. (h) *Eastern*, which contained two *Diœceses*, *Macedonia* and *Dacia*, whereof the former consisted of six, and the latter of five Provinces; and *Western*, which being under the *Præfektus Prætorio* of *Italy* included *Dalmatia*, the two *Pannonia*'s, *Noricum Ripense*, and *Savia*. *Illyricum* divided in the middle by the Mountain *Adrius*, as *Italy*, by the *Apennine*, amongst other things, paid Wine and Horses for the Use of the Army, having of the latter an excellent Breed, and for every thirty Acres the Value of a *Solidus* toward the cloathing of the Souldiers.

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(a) Vide L. 4. Cod. Th. lib. 6. Tit. 4. & que ibi notantur à Gothofredo, & L. 1. ejusd. Cod. lib. 13. Tit. 3. (b) Διόκησις ἐστὶν ἡ πάλαις ἐπαρχίας ἔχουσα ἐν αὐτῇ. (c) Vide Notitiam Imperii. L. 3. de Militari l'est. Cod. Th. & L. ult. de fide Cathol. (d) Legi scilicet à Valente, que extat Cod. Th. de Classicis lib. 10. tit. 23. & Cod. Justinian. L. un. eod. Tit. (e) Gothofred. in d. l. (f) Pancirolius in Notit. orient. C. 7. quem vide de his Classibus.

(g) De Illyrico multa Appianus Capitolinus, Spartianus, Pollio, Vopiscus, Sext. Rufus, Zosimus. Apud hos memorantur Præfektus, Dux, Curator Illyrici, Munimenta, Exercitus Illyrici; separaturque à Rætia, Thracia, Dalmatia nonnunquam; sic Panciroli. sed vide Historiam hanc infra. (h) Notitia Imperii orientalis.

Sect. 2. 17. Each of the Dioceses under the *Præfectus Prætorio* was Governed by it's *Vicar*. He of *Macedonia* Ruled these six Provinces, *Archæia*, *Macedonia*, *Crete*, *Thessaly*, old *Epirus*, new *Epirus*, with part of *Macedonia Salutaris*. Under the *Vicar* of *Dacia* were, *Dacia Mediterranea* and *Dacia Ripensis*, *Mæsia Prima*, *Dardania Prevalitana*, and part of *Macedonia Salutaris*, divided betwixt him and his Brother *Vicar*. These two halves put together, make up twelve Provinces, which being added to the Provinces of the East, fill up the number of sixty Provinces of the Eastern Empire. The Seat of this *Præfect* was first at *Sirmium*; But when *Attila*, the *Goth* had miserably wasted *Illyricum*, *Penninus*, or rather *Ærinus* the *Præfect*, removed to *Theſſalonica*, a City of *Mygdonia* (which was part of *Macedonia*, betwixt the Rivers *Ethedon* and *Dhadrins*, not far from the Sea, formerly called *Halis*, and built ſay ſome by *Caffander*, ſay others by *Philip* of *Macedon*. Upon this account many Privileges were conferred on the Church of *Theſſalonica*. Afterward *Juſtinian* having overcome the *Sclavi*, and recovered both the *Dacia's* and *Pannonia*; made the Town where he himſelf was born *Metropolis*, enlarging and adorning it with Walls, Buildings and great Immunities. Some ſay this was *Sclavonia*, a City of *Dalmatia*, near to *Dacia* and the ſecond *Pannonia*: ſome will have it *Bederina*, others *Acrido*, and ſome none of them all; but of this Matter we ſhall diſcourſe in another Place: but he called it *Juſtiniana Prima*, having founded another City, not far from it, which he alſo called by his own Name. The Chief Enſign of this *Præfect* was an Iron-Chariot guilded, drawn by four Horſes. To this were added the Images of the Princes, and one Table covered with a white Cloth, with golden Fringe, betwixt four Lights, the Emperours Picture upon a Book of Mandates; wherein were ſuppoſed to be contain'd the Duty and Office of the *Præfect*, and went to be preſented to them by the Emperour. And laſtly, are to be ſeen two Women repreſenting the two Dioceses, *Macedonia* and *Dacia*, having their Heads crown'd, and Baskets in their Hands full of Gold. Theſe Enſigns are mentioned, or ſtamped in the *Notitia*, as peculiar to the *Præfects*, not but that they uſed alſo ſuch as belonged of old to the Roman chiefſt Magiſtrates: for they had the *Faſces* with gilt Axes carried before them, as had alſo the *Prætors*; the *Trabea*, or Robe embroydered with Gold and Purple, the Ivory Rod; they had a golden Collar about their Necks, and were girt with a Purple Girdle.

He of Italy.

18. The third *Præfectus Prætorio* was he of *Italy*, who (as *Zoſimus* writes) had under his Jurisdiction, both that Country, and *Africk*, together with the Iſlands of *Sicily*, *Sardinia* and *Corſica*. But we find, that in the Reign of *Julian*, *Mamertinus* was *Præfect* of *Italy*, *Africk*, and alſo *Illyricum*; therefore ſome contend, that the laſt in thoſe times had not conſtantly it's *Præfect*, but the Empire being divided after *Valentinian*, and *Valens*, the *Præfect* of *Italy* had only of *Illyricum* the Western part. This *Præfect*, as he of the Eaſt at *Conſtantinople*, lived at Court, and therefore both theſe were termed *Præfecti Prætorio Comitatus*. In the Code of *Juſtinian* no mention is made of him, nor of the *Præfect* of *Gall*; but only of him of the Eaſt, and of *Eastern Illyricum*, becauſe then the Empire had failed in the Weſt. *Africk* being recovered from the *Vandals* by his Arms, he made a *Præfect* of his new Conqueſts, and to it joyn'd *Sardinia*. But though he alſo recovered *Italy*, yet it doth not appear, that he reſtored it's *Præfect* alſo, it being Governed by *Narſes*, the *Eunuch*, of whoſe Magiſtracy no Title appears in our Law-Books; and for ſuch Governours as ſucceeded him in ſuch parts of *Italy*, as continued under the Empire in following times, they had the Title of *Exarchs* of *Ravenna*, whereas that of *Eparch* was proper for the *Præfect*; but to return to the times whereof we write, and the Age wherein the *Notitia* of the Empire was compoſed. The *Præfectus Prætorio* of *Italy* had in his Diſtrict three Dioceses, *Italy* it ſelf, *Illyricum* (the Western) and *Africk*. That of *Italy* contained ſeventeen Provinces, that of *Illyricum* Six, and that of *Africk* Seven, as in the *Notitia* they are expreſſed, which we do not here ſet down, leſt we perplex the Reader's Memory with too many Names.

His three Dioceses.

The *Præfect* of Gall.

19. To the fourth *Præfectus Prætorio* was, as *Zoſimus* informs us, committed the *Celte*, or *Galls* beyond the Alps, together with *Spain*, and the *Britiſh* Iſlands. Though he governed ſeveral Countries, yet becauſe *Gall* was Richer, and nearer to *Italy* he took his Denomination from it, and was called *Præfectus Prætorio Gallicarum*, in the plural Number. He had three Dioceses in theſe Countries now mentioned; *Gall*, *Spain* and *Britain*, which under ſo many *Vicars* contained twenty nine Provinces, viz. *Spain* ſeven, *Gall* ſeventeen, and *Britain* five, whereof the Names were *Maxima Caſarienſis*, *Valentia*, *Britannia Prima*, *Britannia Secunda*, and *Flavia Caſarienſis*; of which hereafter. But long it was not ere all theſe three

Ἐπαρχοὶ δια-
κονοῦν.

34
 The provinces were overrun and possessed by *Barbarians*, and the *Præfēt* failed. There-
 A. D. 337.
 in the *Notitia* he hath no Ensigns mentioned, only his *Dioceſes* and Provin-
 ces, and his Officers, the ſame with thoſe of the *Præfēt* of *Italy*; and probable it
 is, that *Mutatis Mutandis*, his Enſigns were the ſame; ſo that it might ſeem ſuper-
 fluous to mention them. As for *Juſtinian*, he neither mentions any Officers of
 thoſe Provinces, becauſe in his time they owned not the *Roman Empire*. And
 thus much of the *Præfēts* themſelves. Something muſt be added of their Officers,
 that this Polity, not obſerved hitherto by many Hiſtorians, may more fully ap-
 pear.

Officers
 belonging to
 the *Præſidi*
Prætorio.

20. Fiſt then it muſt be known, that all Magiſtrates of Provinces, and eſpeci-
 ally the *Præfēts*, had one or more Lawyers to aſſiſt them, whom they termed
Aſſeſſores, and *Conſiliarii*. By their Council and Advice they Decided Cauſes; it
 being the part of the *Aſſeſſor* to Inform himſelf fully of the Matter in Controverſie,
 hear Advocates Plead, read Petitions, and Answer them; as alſo, to take care of
 ſuch Edicts as were to be framed, or of Letters to be written, and to Interpret
 Decrees according to Law. They heard Criminal Cauſes, but left Judgment or
 Sentence to be paſſed by the *Præfēts*, to whom they gave Directions therein:
 and what could not be by the *Præfēts*, otherwiſe employ'd, was Diſpatched by them.
 Of other Officers, which attended the *Præfēts*, no certain number can be Aſſigned.
Juſtinian ordained, that the Retinue of the *Præfēt* of *Aſrick* ſhould conſiſt of three
 hundred ninety and eight Perſons; but thoſe of other Places were doubtleſs more
 Numerous; whenas the *Comes* of the *Eaſt* had belonging to him, as ſuch, ſix hun-
 dred Men. The Body of their Officers is in the Laws termed *Officium* and *Appa-
 ritio*, the Officers themſelves *Officiales*, *Apparitores*, *Cohortales*, becauſe they had the
 Form, and Privileges of a *Cohort*: (and *Pancirolus* thinks, that that *Cohort* or Band,
 which by the *Evangelists* is ſaid to have been gathered together at our Saviour's
 Paſſion, was of this nature) *Beneficiarii*, becauſe promoted by the *Beneficium*, or
 kindneſs of the *Tribune*, to ſome Office or Employment; and *ſcriniarii*, becauſe
 they kept the Papers which concern'd themſelves, in Deſks or Coſſers. Theſe Of-
 ficers, both of the *Præfēts*, and other Illuſtrious Magiſtrates, as alſo thoſe that had
 the Title of *ſpectabiles*, were made ſuch by the Prince his Codicils, or Letters.
 Every *Chriſtmas* day there was a Promotion of them to be *Cornicularii*, or *Com-
 mentarienſes*, as they had deſerved. Their Work was to Execute the Commands
 of the *Præfēts*, Introduce ſuch as had Suits, make Records, and read them; enter
 Judgments and Execute them, and do other things Requiſite, as in Courts of Judi-
 cature. They were ſent to Adminiſter Oaths to ſuch as were ſick, or Noble Per-
 ſons. They went before the *Præfēts*, as *Liſtors* before them and other Magiſtrates;
 took care of the publick Poſts; gathered Tributes; hunted out High-way-men,
 diſcovered to them by the *Stationary* Souldiers; who, by the Ordinance of *Auguſtus*,
 were appointed to lye in wait for Robbers. They had large Fees, beſides Proviſi-
 ons allowed them out of the Provinces; and theſe lay about the Houſes of the
Præfēts. There were others that liv'd with them, and were call'd *Domesticks*;
 whereof there were ſome that were call'd *Chancellors*; who wrote Letters from
 them (as from the *Præſidents*) to Private men; and ſo named, as appeareth from
Cæſſiodorus, becauſe they ſate within *Cancelli*, or Lattices, through which might be
 ſeen what they did.

*Vide Panciro-
 lus de Aſſeſſoribus
 ad Notitiam
 Orient. Imp. l. 8.
 Gutherium ubi
 ſupra, Tit. 2.
 c. 4.*

Their general
 Names,

And Employ-
 ment in gene-
 ral

In Particular,
 theſe were

Principes.

Cornicularius.

21. But the *Notitia* reckons up in the Office of the *Præfēti Prætorio*, theſe by
 Name, viz. the *Princeps*, *Cornicularius*, *Adjutor*, *Commentarienſis*, *Abactis*, four *Nu-
 merarii*, *Subadjuva*, *Curator Epistolæ*, *Reſcribendarius*, *Exceptores*, *Adjutores*, & *Singula-
 rii*; whereof moſt are frequently mention'd in Law-books. The *Fiſt* was Princip-
 al of the Office, directing and commanding the reſt of the Officials, without
 whoſe Order nothing could be done; being herein like the *Princeps*, or Principal
 of the fiſt *Cohort*. He had, beſides other Clerks in his own Office, a *Domestick*
Chancellor, who wrote his moſt ſecret buſineſs; and, beſides other Honours, had
 the Title of *Clariffimus*. The next to him was the *Cornicularius*, whom *Accuſus*
 takes only for a ſimple *Prætorian Apparitor*; *Alciat*, for a Miniſter of the Principal;
 but *Pancirolus*, according to the *Notitia* and the Laws, for one of the Chief of the
 Office; and thinks him to have been the Writer and Publisher of the Commands,
 Judgments, and Decrees of the *Præfēt*, or the *Præſident*. Sometimes he is called
Chancellor, but ordinarily *Cornicularius*, which Name is Antient, being given to the
Scribe of the *Tribuni Plebis* of old, and ſeems taken from an Horn, which he might
 uſe as the Enſign of his Employment, or by it to command Silence in the Court.
 They were preſent, as appeareth from the Acts of Martyrs, at the Examination of
 Criminals, and took charge of ſuch as were Condemned. It's thought they Com-
 manded

Sect. 2. nothing should be wanting of the due Sum of Money, and of that Gold which belonged to the Treasures of the Provinces, and part they assigned to the *Prætorian Chest*, and the rest to be transmitted to the *Comes Largitionum*: the other *Comes* was over the private Patrimony of the Prince, viz. his Lands and Houses; and besides this, gathered some few things; what herein belonged to him, arising out of Causes handled in the Treasury, Confiscated Goods, and some other ways. These Accounts were made up by the *Numerarii* in the Provinces, who entred the Kinds and Quantities of the said Goods, and what Profits were made of the Prince his Lands. All which the *Numerarii* of the *Præfect* of the *East* diligently Reviewed and Collected. *Isidore* will have the *Numerarii* so called, because they brought the Publick Money into the Treasury; but St. *Augustine* seems to derive their Name from Numbering or Accounting; and most probably they were much the same for Employment, as our *Auditors*. But these two belonging to the *Præfect*, (as the other also of the Provinces) were employed in Accounts and Writings. A third was called *Numerarius Auri*, who received the Gold levied out of the Provinces, and belonging to the Chest of Publick Issues; exchanged Silver for Gold, and managed the golden Mines. The fourth was *Numerarius operum Publicorum*, of publick Works, as the Palace, publick Houses, Gates, Aquæducts, Walls and Baths. For the *Præfectus Prætorio* had the Charge of the Building or repairing of them, as this Officer kept the Accotints, as also he seems to have done of certain kinds of Mines. The Pains of the *Numerarii* being great, they were allowed Assistants, provided they chose them out of the thirty Principals called *Primores*; who might not execute the Office of Assistants twice, without the Interval of two years, lest their long Continuance should minister Occasion of Fraud. The *Numerarii* being discharged, were free from Personal Offices, and requited with the Dignity of *Comites* of the first Rank.

A. D.

337.

a Nummo.
a Numerando.

Subadjuva. 25. To the *Numerarii* is adjoyned the *Subadjuva*, who yet was not their Minister, but Adjutant to the Adjutants, and thence had his Name. In the Office of the *Magistri Militum*, he is by the *Notitia* called *Primiscripius*. He that belonged to the *Præfectus Prætorio* of *Africk* had ten Clerks writing in his under Office, maintained at the publick Charge. After the *Subadjuva*, or rather the *Subadjuvæ* (for there were several of them) he is reckoned that had the Care of Letters, or Epistles, which the *Præfect* had occasion often to write, both to the Prince and others. Those that were written in behalf of such as had well discharged their Employments, were termed *Epistolæ Testimoniales*; those that concerned the *Canones* or Rates of the Tributes, *Canonice*. They that wrote them were also called *Epistolares*, who moreover in Case of Appeals to the *Præfect*, took account of what had been done by the former Judge, and recorded the succeeding Process. He that follows, viz. the *Requerendarius* was doubtless the Master of Requests to the *Præfect*; so called, because he did *Requerere*, or *Referre in Codicem*, Book such Petitions as he received: in the East he was termed *Subscribendarius*, for that he subscribed the Petitions: thence a Book into which things were transcribed was called *Registrum*. *Pan. volas* thinks *Requerendarius* the same with *Referendarius*, who as *Procopius* Lib. 2. de Bello Persico, de Theodoro Scribens. writes, presented Petitions to the Prince, and returned Answer from him. In the Office of the *Magistri Militum* of the *East*, he is called *Scripiarius*, and by *Theodosius*, *Tabellensis*, as by others *Libellis*. The Office of Petitions belonging to the *Præfectus Prætorio* of *Africk*, had six Writers in it, paid by the Publick. The *Præfectus Augustalis*, the *Viars*, *Correctores* and *Præsidents* had none of these Officers, because bound to subscribe Petitions themselves; yet the *Consulares* of the *East* (though not those of the *West*) had such under them, that they might preserve some Shadow of the *Consular* Dignity. In the Office of the *Præfectus Prætorio* were also the *Exceptores*, who in the Causes of Appeals, Recorded the Judgments given before him. They kept the Records called *Memoria*; though some think the Place where they were deposited to have been so called. Moreover they were wont to draw the Edicts of Princes. They were governed by one *Primicerius*, who had Assistants, when Absent, or otherwise employed. Of this sort of Officers there were sixty belonging to the *Præfect* of *Africk*; and what Wealth Sons, their Fathers yet living, got in the Employment, was accounted as much *Castrense Peculium*, as if they had served in the first Legion: which Privilege Lawyers also have observ'd to have belonged to all Apparitors, or those Officers of whom we have now Treated. But these were the *Scripiarii*, who dealt in Writing. There were other Officers and Attendants of the *Præfects*, not so considerable, which therefore we shall omit. And thus much of the *Præfecti Prætorio*, and their Office; and so much, because the

Cura Epistolaram.

Requerendarius.

Exceptores.

Exceptores, ab
Acta excipi-
endo.Filiis familias
quicquid ac-
quirebant, Pa-
tribus suis ac-
quirebant, ex-
cepto Peculio
Castrensi, &
quasi Castrensi.

Sect. 2. the Understanding of their Place and Employment in the State gives the greatest Light to the Tome of that Government we endeavour to describe, and to the Understanding of the Imperial Laws. A. D. 337.

26. Besides the *Præfetti Prætorio*, there were other *Præfects* and civil Magistrates, not Subject to them (nay two which in the two great Cities took place of them) of whom something is to be said, and then we come to the Magistrates of the Provinces; these were the *Præfects* of both *Romes*, and other Officers belonging to these Cities under their Command. *Augustus*, as we have elsewhere noted, ordained a *Præfect* of *Rome*, but he seems rather to have Restored the Office, than to have first instituted it: for the Kings in their Absence left such a Magistrate to govern the People. *Romulus* was so deputed by *Romulus*; *Martius* by *Tullus Hostilius*, and *Sp. Lucretius* by *Tarquinius Superbus*. Long after, *Augustus* being bulied by his Wars, set *Mecenas* over the City; a man of Equestrian Rank: then by Reason of the Multitude of People, and the slow Proceedings of Law, he took some of Consular Dignity to restrain the Insolence of Slaves, which was at that time very great. The first of these was *Messala Corvinus*, who continued in but a short time, as not knowing how to govern; and some said he laid down on his own accord within six days, protesting it was an Arbitrary Office; to which *Augustus* had granted absolute Power; not only within the City, but an hundred Miles round about. At first the *Præfect* received Appeals from all the Provinces, but afterward this was restrained to those call'd *Suburbane*, or *Suburbicarian*, because (if *Pancirolus* say right) they reached to the Suburbs of *Rome*. *Alexander* the Emperour lessened his Power, joyning with him fourteen Persons of Consular Rank, termed *Curators*, as *Lampridius* writes. From the *Prætors* of *Rome*, which in the time of *Constantine* were two, he also receiv'd Appeals; and when the *War* of *Africa* ceased, *Valentinian* ordered Appeals to be made to him out of those Transmarine Provinces. Of a Senator's Life he was to Judge, assisted with five *Patrician* Senator's chosen by Lot; whence this Process was called *Quinquævirale Judicium*. But Appeal lay from him to the Prince, in which respect he was inferiour to the *Præfectus Prætorio*, from whom none lay, though in certain Cases he was obliged to consult the Emperour. Both of them might banish into Islands, and deprive Criminals of their Liberty. He had under his Command Souldiers disposed into certain Stations in the City, to be ready for the suppressing of Tumults. Under his Care were the *Specacula*, or publick Shows, the selling of Meat at Just Prices, and all Trades; for which were chosen inferiour Officers, at the Prince his Discretion. He had the oversight also of publick Buildings; and as the *Præsul* of Senators, presided in the Senate.

Officers under him.

27. Under him were these several Officers in the City for dispatching the Businesses above said: The *Præfectus Annonæ*, to whom belonged the Care of Provisions; *Præfectus Vigilum*, who governed the Watches appointed for Prevention of Fires and Robberies: The *Comes Formarum*, who looked to the repairing of *Aqueducts*, or Vaults call'd *Formæ*: The *Comes Riparum alvei Tiberis, & Cloacarum*, who had Charge of the River *Tiber*, and the common Sewers: The *Comes Portus*, who governed the Port or Haven of *Hostia* made by *Claudius*: The *Magister Censuræ*, whose Charge it was to see that Taxes and Impositions were truly, and equally laid: The *Rationalis Vinorum*, who took account of the Wines imported, and of the Customes thence arising: The *Tribunus Fori Suarii* or Over-seeer of the Hog-Market: The *Consularis Aquarum*, who had the oversight of the nineteen, or as others say, twenty four Waters conveyed by *Aqueducts* into the City: The *Curator Operum Maximorum*, to whom was committed the Care of the great Cinque, the Walls, the *Amphitheatrum Castrense*, and other great Works: The *Curator Operum Publicorum*, who had Charge of the publick Houses, and other Works. The *Curator Statuarum*, to whom was committed the Safe-guard of the Statues, whereof at *Rome* was a great number: The *Curator Horreorum Galbanorum*, or of the Publick Storehouses: The *Centenarius Portus*, who saw that Strangers and Citizens quarrell'd not at the Haven, and provided for Apprehension of Thieves and Malefactors: And lastly, the (a) *Tribunus Rerum Nitentium*; whose Business it was to see that the sacred Houses, Palaces, Courts, Baths, Cirques, Theatres, Amphitheatres, Highways, Libraries, Fields and other Publick Places were kept sweet, Neat and Cleanly.

28. *Constantinople*, as we said, being made another Seat of the Empire of *Constantine*, and named *New Rome*, with the Name received all the Privileges of the Old. Emulating therefore *Rome* in all things, it was also divided into fourteen Regions; had it's *Capitol*, and other publick Places and Ornaments; and also its

(a) *Præ*

Señt. 2. (a) *Præfekt* who Judged and Determined, as well Civil, as criminal Causes, and those of *Senators* also within a certain Compass; and to him Appeals lay, as to the other out of the Provinces, from the *Præsidents* and *Proconsuls*. *Constantine* ordained no *Præfekt* for its Government, but three *Prætors*; whereof the first he called *Flavius*, the second *Constantinianus*, and the third *Triumphalis*, from the Victories he had obtained; all which he would have spend large Sums of Money upon the People in the Theatres. These were to be of *Senatorian Rank*, and by such to be chosen. *Constantinus*, his Son, to these three added two *Prætors* more, but in the last year but one, of his Reign, made one single Governour of the City, *Honoratus* by name, who had been *Præfekt* of *Gall*, with the Title of *Consularis* of *Byzantium*, as *Pancirolos* imagined, by a Mistake of *Byzantium*, for *Byzantium* in *Africk*, as (b) *Gothofred* tells us in his Discourse concerning this Subject. For this chief Officer had the very Title of *Præfekt*, and this Title continued, as may be seen by the Imperial Constitutions. And now had he Power over the (c) *Prætors* of the City, the number of whom under *Valentinian* was lessened to four, who entered their Office on the first of *January*. *Gratian* added other Four. At length *Valentinian* the Third, and *Martian*, commanded only three to be created out of the *Senators* dwelling at *Constantinople*, who had some Cognisance of the Affairs of Children and Minors. The *Notitia* takes no Notice of them, as perhaps at that time laid aside, or of small Account. Their Office in those Days was dwindled to little more, than to set forth Plays and publick Shows, wherein they were at great Charges. In the time of *Justinian* there seemeth one only to have been at *Constantinople*, called *Prætor Plebis*, whom he styleth *Magnificentissimus*, who had an Apparitor.

29. *Constantinus*, that he might give greater Authority to the Governour of this City, Ordained, that from the two Governours of the Diocese of *Pontica*, viz. *Bithynia* and *Paphlagonia*; and so many of *Alia*, viz. *Lydia* and *Phrygia Salutaris*, and from the two *Proconsuls* of *Asia*, the *Hellepont*, and Islands, and from the three *Proconsuls* of the Diocese of *Thrace*, to him should lye Appeals. This *Præfekt* had Souldiers under him. He had Power over Tradesmen, as had the other of *Rome*, and took care that the Liberal Sciences should there be professed; employing at *Constantinople*, as the other at *Rome*, three Rhetoricians, ten Grammarians of both Languages, five Sophists, one Philosopher, and two Interpreters of the Laws. He oversaw the eleven hundred Shops given by *Constantine* and *Anastasius* to the Great Church in *Constantinople*. He had the same Officers, as the other of *Rome*; only it doth not appear that he had a *Vicar*. Amongst those the *Præfektus Annonæ* took Care of the *Palatine Bread*, which we formerly mentioned to have been by *Constantine's* Bounty bestowed upon the People, out of the *Palace*. As the *Præfektus Vigilum* at *Rome* commanded seven Cohorts or Companies for prevention of Fires; so this at *Constantinople*, five hundred and sixty three Persons chosen out of the Bodies of Artificers, and Disposed as need required, through the fourteen Regions. But this Office being in process of time bestowed on mean Persons, who instead of suppressing, conspired with Thieves, by degrees it became of no Repute. wherefore *Justinian* in the *Præfekt's* room Created the *Prætor Plebis*, to whom he gave Power of the Sword over such as by Whoring, Drunkning, or other such Courses, offended in the Night. The *Præfekt* of *Constantinople* also nominated the *Leſticarii*, or *Decanarii*, a Company founded by *Constantine*, for Burying of the Dead, maintained by Rents he assigned them out of the Shops lately mentioned. They were called *Leſticarii* from the Beds or Bieres; and *Decanarii*, it's probable, because divided into Companies consisting of ten apiece. And, as at *Rome*, it's not to be doubted but here also were *Curatores Operum*; for here were also several Great and Considerable Works, which requir'd the Oversight of some careful Persons. Here were four *Forum's*, two Theatres, one Cirque, eight Baths, two Palaces, five Store-houses, two Houses for Playes or Shows, four Cisterns, four Stews or Bains, fifty two *Porticus's*, twenty publick Prisons, like *Bridewell*, an hundred and seventy Degrees or Stairs whereon the Poor received the Bread given by Princes, one *Porphry Column*, two others Hollow, one Coloss, besides several other things of Curiosity. Both *Præfekt's* had the Offices of *Princeps*, *Cornicularius*, *Adjutor*, *Commentariensis*, and the rest. Both were Equal in Dignity, and Illustrious. Both had the same Ensigns of Authority common to them and the *Præfektus Prætorio*, or with very little difference. In a gilt Chariot drawn by four Horses, they rode through the City, with the same Acclamations of Criers and People. *Alexander* the Emperour calleth the *Præfekt* of the City, *Urbis Amicum*. Other Princes in their Constitutions give them the Titles of *Tua Sublimitas*, *Magnitudo*, *Sinceritas*, *Illustris Auctoritas*, and others given to the

Præ-

The Præfekt
of Constantinople.

From whence
to him lay Ap-
peals.

Officers under
his Command.

(a) De Præfektio
Constantin. vi-
tand. Panci-
rolum in Com-
ment. ad Notit.
Imp. Orient.
C. 25.

(b) Notitiam Præ-
fektorum urbis
Constant. Go-
thofred. in Noti-
tia Imp. Rom.

(c) Et Historiam
hanc nostram.
(b) Vide Com-
ment. Gothofr.
ad L. 16.

(c) de Præto-
ribus et Qua-
estribus Cod.
Tit. lib. 6.
Tit. 4.

St&Ct. 2. generally esteem as Ensigns and Marks of Cities. The *Prætorium* was the place where the President or Chief Governour Administred Justice. The *Gymnasium* or *Palestra*, was a Four-square, encompassed with a *Peristylum*, or four Galleries (as the *Exchange* in *London*, or Cloisters in Monasteries) whereof that toward the South was double, having an *Exedra*, or place with Seats, like to Chapter-House in Monasteries, where Philosophers sate and Disputed. On the Theatre were Plays and Shows presented. In the *Forum* the *Duumviri*, or *Defensores Civitatum*, Magistrates of the Cities, Administred Justice in lesser Matters. The *Porticus*, or *Basilica* were Arched Buildings, supported by Pillars, where Business were Transacted, as the *Exchange*, having about them Shops, whereof mention is often made in Law-books. The Christian Churches resembling these, were also termed *Basilicae*. Afterwards, Bishops being set over the more Eminent Towns, such are not esteemed Cities as are not Episcopal Seats, especially in *Italy*; yet is not this universally observ'd, and Lawyers confess it to be no necessary Mark.

A. D. .

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What Governours of Provinces in the time of Constantine.

32. But before the time of *Constantine*, whereas Provinces were of various sorts; as first, *Prætorian*, then *Consular*, and *Proconsular*; sometimes *Proprætorian*, and sometimes *Questorian*, (as *Cyprus*, to which were sent *Questors*, who Raised Money, and Administred Justice without Military Power.) About this time this Custom was changed by the Institution of the four *Præfetti Prætorio*, their *Dioceses* and *Provinces*. Over their *Dioceses* certain Officers and the *Vicars* had Command, and under them, over the several Provinces into which the *Dioceses* were subdivided, other Governours called *Proconsuls*, *Consulares*, *Correctores*, and *Presidents*. The *Diocese* of the *East* was committed to a *Comes*, and that of *Aegypt* to one that bore the Title of *Præfectus Augustalis*, and under them the *Vicars*; as there were three several sorts of *Magistrates*, so of Provinces, some were of the greater, some of the middle, and some of the lesser sort. The first were Governed by *Proconsuls*, the second by *Consulares* or *Correctores*, and the third by *Presidents*; for the *Præsides* were the lower sort of Governours, although sometimes all Provincial Magistrates (by reason of the Latitude of the words) go under that Name or Appellation; and no more kinds of *Provincial* Magistrates are found in the *Notitia*. Further, it must be known, that these Provinces were often made greater or lesser, viz. *Proconsulares*, *Consulares*, or *Præficial*, according to the Exigency of Affairs, or the Pleasure of Princes; as also their Limits altered and changed for the same Reasons. The *Comes* of the *East* (who sometimes goes under the Name of *Præfect* of the *East*, sometimes of *Vicar*, and otherwhiles of *President*, in the general sense now mentioned) had great Authority, receiving Appeals from all the Inferiour Magistrates of his fifteen Provinces. He had Power to Fine as far as six Ounces of Gold, whereas that of other Magistrates, that were only *Speculabiles*, extended but to three. To his Court belonged forty Advocates, who had studied the Law at least five years. In his Office he had six hundred Apparitors; and resided at *Antioch*, the Metropolis of *Syria*; yet from him there lay Appeals to the *Præfectus Prætorio*, and the *Questor* of the Palace; and his vast Jurisdiction over fifteen Provinces, was at length cut short by *Justinian*, who confined it to *Syria Prima*, and *Cyrrhestia* adjoining to it.

The Comes of the East.

The Præfectus Augustalis of Aegypt.

33. The *Præfectus Augustalis* was instituted by *Augustus*, by him appointed to the Government of *Aegypt*, and thence had his Name. He was no *Senator*, nor so much as *Consularis* till the time of *Severus*, but only of *Equestrian* Rank. His great Charge was to see conveyed away for *Constantinople* the *Felix Embola*, or the constant annual quantity of Corn. For in the days of *Augustus*, *Aegypt* supplied *Rome* with two Millions of *Modii* of Wheat; and indeed for four Months of the year alone furnished that City. The Imperial Seat being Translated to *Constantinople*, Corn was also from *Aegypt* transported thither, and thither only, after that the West was overrun by the Barbarous Nations; and hence came all that Grain, which *Constantine* turned into Bread, and caused to be Distributed to the Inhabitants of his new City; which Allowance, though diminished to one half by his Son *Constantinus*, yet afterward was made up and increased by his Successors. In *Justinian's* time eight Millions of *Medimni* yearly were sent to *Constantinople*, bought with six hundred and eleven pounds of Gold, given by the Liberality of the Senate, or others, into the hands of the *Præfect* of the City, or the *Præfectus Annonæ*. Neither is it any wonder, that *Aegypt* should afford so much Corn, considering it's vast Fruitfulness and Riches; for it yielded to *Aulæ* a Revenue of twelve thousand and five hundred Talents, and as much more to *Augustus*. Nay, some affirm, that *Ptolomy Philadelphus* raised out of it three Millions and five hundred thousand

Of our Money,
2343750 l. as
Mr. Brierwood
reckons.

Mo-

Sect. 2. *Modii* of Corn, and fourteen thousand eight hundred Talents. And yet the Inhabitants in *Nero's* time, besides the *Alexandrians*, were seven Millions and fifty thousand Persons: but, for the Power of the *Præfect*, he inquired into the Misdemeanours of the *Presidents* Subject to his Jurisdiction (for only *Presidents* they were, no *Proconsuls*, or *Consulares*, because he himself was sometimes but of *Equestrian* Degree) and, their Crimes first made known to the Prince, punished or removed them. His Residence was at *Alexandria*, the great *Emporium*, not only of the *Roman* Empire, but of all the *East*. For hither Merchandise from *India* was convey'd. *Justinian* reduced his Power also into narrow Bounds, confining it to *Alexandria*, and the two Provinces called both the *Ægypt*, or all *Delta*; *Marcotis*, and the City of *Menelans* excepted, which he laid to *Libya*. The *Presidents* of these two Provinces alone he subjected to his Command; allowing him an Office of six hundred men, and a Revenue proportionable to so straitned a Power. He was bound yearly to exhibit the Courses of thirty six Horses before the People, and was at further Expenses in Publick Baths, and other things. The *Comes* of the *East*, and he had the same Ensigns of their Authority; viz. the Faces of the Princes on the top of a Gilded Pillar; on a Table covered with a white Carpet, a Book overlaid with Silver: below, the Pictures of the six Provinces subject to him, holding in their hands Vessels full of Gold, in token of Tribute; having about their Necks Golden Chains, on their Heads Crowns; and some of them appear, as having cast off their Mantles from about their Shoulders. The *Comes* of the *East*, this *Præfect*, and the *Vicars*, were of the Rank of *Speſtabilis*, and so was the *Proconsul*.

The Ensigns
of their Au-
thority.

The Procon-
sul.

How much
more Honou-
rable than
other Ordina-
ry Magistrates.

34. The *Proconsul* of *Asia* had under him three Provinces, and being Governour of a kind of *Diocese*, was of the same Rank and Power with the *Comes*, *Præfect* and *Vicars*. Any other *Proconsuls* that were but Governours of single Provinces, yet had greater Privileges than other Provincial Officers, as the *Proconsul* of *Achaia*, to whom the *Notitia* gives also the Title of *Speſtabilis*, with his Officers, as the *Princeps*, *Cornicularius*, *Commentariensis*, *Quæstor*, *Adjutor*, and the rest, whom we find belonging to the Governours of *Dioceses*. There were many other particulars wherein the *Proconsul* Excelled the Ordinary Magistrates of Provinces; this Respect being continued to him by Posterity, out of acknowledgment of that great Dignity and Power whereof he was possessed. He had six Bundles of Rods and Axes carried before him, whereas a *President* had but five. It's probable indeed, that the *Consularis* had the same Ornaments with him, but not the *Correctores*, nor *Presidents*. From his first Departure out of the City he used these Ornaments, till his Return; and exercised in the way voluntary Jurisdiction (as we call it) viz. of *Manumission* and *Adoption*, which things were not permitted to other Magistrates. He could fine in six Ounces of Gold, as could the *Comes* of the *East*, and the *Præfectus Augustalis*; *Presidents*, but in two. He had his *Legatus* or Lieutenant to whom he could deiegate his Jurisdiction, whereas the *President* contented with one *Assessor*, delegated Causes to inferior Judges. A *Proconsul*, though he continued in his Office but a year, yet still administred Justice till the Arrival of his Successour; a *President*, only so long as pleased the Prince. Some think that to him alone was proper the Power of Deportation, not to the *President*. He had the same Privilege of old, as the *Prætor* at *Rome*, of publishing Edicts to moderate the Law, which were termed thence *Jus Provinciale*, a Power never granted to *Presidents*, nor other Magistrates, styled *Clarissimi*, till the Reign of *Probus*. *Presidents* were under Command of the *Comes* of the *East*, or of *Vicars*. The *Proconsul* was Subject to the Orders of the *Præfectus Prætorio* alone. From the *President* though Delegated by the Prince, Appeal lay to the next *Proconsul* in Matters not exceeding ten pounds of Gold; but from the *Proconsul*, to the *P. P.* or the *Quæstor* of the Palace. The *Proconsul* had his *Libellenses*, not the rest. He rode in a Silver'd Chariot drawn by four Horses. He had for Ensigns of his Authority the Picture of his Provinces, or Province, together with the Images of the Princes on a Pillar, and a Book of Mandates standing on a Table covered with a white Carpet, with a golden Fringe. Neither he, nor any other Magistrate could stir out of his Province, nor make War without the Authority of the *Senate*, or the Prince: Neither could any of them in his Province build a Ship; lest by a Liberty, and Study of Gain, they should be diverted from the publick Business, or intercept the Profits and Encouragements of Merchants.

Other Provin-
cial Magi-
strates of the
Degree of
Clarissimi.

35. Now after these, who bore the Title of *Speſtabilis*, a little of the other Provincial Magistrates styled *Clarissimi*; such were *Consulares*, *Correctores*, and *Presidents*, to whom, under the *Vicars*, the Provinces ordinarily were divided. Here the

A. D

337.

F. de Jure Fisci
l. 4. S. 2.
Joh. Loccenius
de Jure Mariti-
mo, lib. 1. C. 2.
ff. 1.

Sect. 2. the *Consulares* are not to be understood, as such who had born the Office of *Consul*, A. D. but as were Dignified with *Consular* Ornaments only, being first Instituted by *Augustus*, and set over the Provinces of *Italy*, whence they passed into other Countries. Sometimes Commanders of Armies have been called *Consulares*; either by Reason of the same Ornaments, or because they were created out of this sort of Magistrates, and there was a *Consularis* of Waters under the *Præfett* of *Rome*. Their Ensigns of Authority were six *Fasces* and Axes, a *Curule-Chair*, and the Faces of the Princes, with the Image of a Woman representing the Province; whereas *Correctores* and *Presidents* had that of a Town, and a Book of Mandates, not marked, as was that of theirs. Their Office or Attendance was Constituted, as that of *Presidents* and other *Clarissimi*. They had of old two *Numerarii*, but afterward were allowed but one apiece. There were in the *East* fifteen *Consulares*, and sometimes in the *West* two and twenty; and the Name and Employment continued till the times of *Justinian*, who mentions the *Consularian* Provinces. 337.

Correctores. 36. *Correctores* held the middle Place betwixt *Consulares* and *Presidents*. This sort of Officer is found in the Reigns of *Severus* and *Caracalla*, and afterward was created a *Corrector* of all *Italy*, who continued long in use, till *Constantine's* time, and then this Emperour ordained two for that Country. At length they got into other Provinces, as *Augustanica* and *Paphlagonia* in the *East*, and in the *West*, *Savia*. They had some Command over Souldiers, whom they punished with the Knowledge of the *Magistri Militum*. They wore the *Chlamys*, and had as Ensignes of their Authority the Faces of the Princes, with Books of Mandates, and the Image of a Town, and the same Office, or Apparitors, as the *Consulares* and *Presidents*. To add something, though not much, to what we have already frequently hinted concerning the *Præses* or *President*: Of those *Prætorian* Provinces made by *Augustus*, *Alexander* the Emperour made many *Præsidial*: and afterwards *Prætors* being taken away, all the rest became such, till the Reign of *Justinian*, who restored the Office and Authority of *Prætors*. The *Presidents*, as others of the *Clarissimi* were termed *Ordinarii*, their Provinces *Ordinaria*, and also their Seats; generally they had the Style of *Clarissimi*, but not all: for the *Præses Arabiae* under the *Comes* of the *East*, and he of *Isauria* were but of the Degree of *Perfectissimus*. The Prince honoured them, as the *Correctores*, with the Titles of Brothers, of *Justissimi*, *Vigilantissimi*, *Optimi*, and *Præstantissimi*; as *Claudius Iulias* saluted *Felix*, and *St. Paul* worded it to *Festus*. They continued in Power but a year, except the Prince thought fit to continue them longer. Their Office and Attendance was very little different from those of the *Consulares* and *Correctores*: and the Ensigns of such of them who were but *Perfectissimi*, were well nigh the same with those of the other.

Military Officers. 37. We have Dispatched the Civil Magistrates of the Provinces, and now come to the Military, being of as great Concernment, such as were placed on the Limits of the Empire. *Augustus* (as we said) retaining those Provinces that were Troublesom, and furnished with Souldiers, in his own hands; appointed nine Regions, or Limits, on the Borders to be kept by the Legions. One in *Spain*, with three Legions; one in the Lower *Germany* upon the *Rhine*, with four; another in the upper *Germany*, upon the *Danubius*, with other four; a fourth in *Dalmatia*, with two; a fifth in *Pannonia* with three; a sixth Limit in *Syria*, with four Legions; a seventh in *Aegypt*, with two; an eighth in *Africk*, with one; and a ninth in *Mæsia*, upon *Danubius*, with two. All which make up twenty five Legions. But to these *Claudius* added a tenth Limit in *Britain*, with three Legions; *Vespasian* an eleventh in *Cappadocia*, with two; *Trajan* a twelfth in *Dacia*, with two; a thirteenth in *Armenia* and *Mesopotamia*, upon the River *Tigris*, with other two; and a fourteenth in *Arabia*, with one. All which make up the number of thirty five Legions. Afterwards, new Enemies continually falling upon the *Roman* Empire, sometimes new Limits were added to the old, and otherwhiles their Number was lessened, as the state of Affairs required. *Dio* mentions thirteen in *Alexander's* time, and the *Notitia* fifteen in the *East* alone. Afterward, when the Empire of the *West* was over-run, the Emperour *Leo*, for the better Defence of the *East*, added three Limits, with so many *Comites*, and one *Dux* of the Western *Pannonia*. And whereas *Palestine* and *Mesopotamia* had formerly had each its *Dux*, this Charge of those Countries was given to a single Person; there being now five *Comites* that Commanded in the *East*. For the better understanding of these Limits, or *Pretexturae*, as they were also called, *Theodosius* (a) tells us in his *Novels*, that whatsoever belonged to the *Roman* Empire, was in old time fenced with a *Vallum Limitis*, a Wall or Rampier of a Limit, from the Incurfions of *Barbarians*. (a) Majorum dispositione vallo Limitis ab Incurfione Barbarica defensor, quic quid intra Romanis nominis concluditur restat.

Sect. 2. 38. Yet is not this old time to be extended beyond that of the Emperour *Adrian*, before whose Reign, the *Romans* in their Limits made use of Camps and Stations, rather than Walls: but *Adrian* found it more convenient to raise Walls in such Places (a) as were not by Rivers separated and fenced from *Barbarians*; of which that is most celebrated, which he here in *Britain* caused to be drawn betwixt the mouths of the Rivers *Tine* and *Esk*, though the Materials were no better than Turf. Afterwards (b) were added for the further security of the *Limits*, *Towns*, *Garisons*, *Castles* and *Forts*, such as (b) *Zosimus* writes *Dioclesian* to have raised out of his great fore-sight, for the safety of the Empire. These *Towns* are called *Towns of View* or *Discovery*, by *Aristides* (c) the Oator; for upon the Borders were of old appointed Select Companies of Spies, or Scouts, call'd *Speculatores*, or *Exploratores*, whose Duty it was, as (d) *Ammianus* describes it, to go far and near to Discover the Motions of the Neighbouring Nations to the *Duces*, or Captains. But it was grown a great piece of Policy with the *Romans*, and that we can easily believe, before the time of *Dioclesian*, for hindrance of the Irruptions of Barbarous Nations, to build *Towns* upon the Borders; not only where there was no Natural Fence by Mountains or Waters, but upon Rivers also, as hath often been observ'd. For instance, *Strasbourg*, *Spire*, *Mentz*, *Confluentz*, and others upon the *Rhine*, to restrain the Incursions of the *Germanians* into *Gall*; and it was also practis'd by them here in *Britain*; where *Bravonium*, or *Brannonium* was built upon the Eastern Bank of the *Severn*, the better to curb the *Transalpine* Natives, besides *Deva* (now *Chester*) and other Cities upon the River *Dec*. As for the other sorts of Works, the greater Munitions were called *Castra*, from the Camps of the Souldiers, and these, not seldom, grew into great *Towns* or Cities throughout *Europe*; which we find evident here in *Britain*, where almost all our great Cities and *Towns* had their beginning from the *Roman Castra*, (whether on the Borders or elsewhere) though not alwayes planted in the very same site, yet at no great distance. And especially this observation holds in those, the Names of which were in the *Saxon* times fashion'd so as to end in *Chester*. For which reason also it is, that the Ancient Stations about the *Picts* Wall, the *Carkasses* of many whereof do at this day appear, are still called *Chesters* by the Country People. The lesser sort of Munitions were not termed *Castra*, but diminutively *Castella*, and *Burgi*; which Name, as *Vegetius* writes, was under the later Emperours given to small Castles, or *Forts* convenient for War, and well stored with Corn; and the *Burgundians* from living in such, received theirs; to which *Orosius* also witnesseth. *Procopius* writes, as if these small *Forts* were first built upon *Danubius*, being not strong in themselves, but in the Souldiers who lodged in them. That *Attila* easily Demolished them in his Passage, and that *Justinian* re-edified them; not such as they had been formerly, but very strong, and able to endure a Siege. But of all these *Towns*, Camps, or Castles, there were in the *East* alone above three hundred *Garisons*, and scarcely any Province but had fifteen, or thereabouts.

39. Now, to come closer to our business; every one of these *Towns* had its Governor, or *Præpositus*, and the several Limits or Frontiers had their several *Duces Limitanei*. Here we must take notice, that the Commanders of Armies were Anciently called *Duces*, though most commonly *Imperatores*. Afterward the Sovereign Power being transferr'd from the People to the Prince, and the Title of *Imperator* being assumed by him as Peculiar; Generals were only called *Duces*. At length the Name was in an eminent way conferred on such as Commanded the Souldiers lying upon the Frontiers, which being ordinarily Infested by the *Barbarians*, stood in need of perpetual Guards. And of these *Eusebius*, or the Author of *Constantine's* Life, is to be understood, where he writes, that that Emperour made many *Duces*; although the *Duces* of the Borders were much Ancienter than in his time. Our Learned *Cambden* will have those that Govern'd the Limits first styled *Duces*, about the time of *Ælius Verus*; but *Pancirolus* more Antiently than this; no later than the first Emperours. Their Name and Office was older, but their great Encouragement, and the support of their Employment they received from *Alexander Severus*, the Emperour, who, as *Lampridius* tells us, gave such Grounds and Territories, as were gained from the Enemy upon the Borders, to those *Duces Limitanei*, and such Souldiers as served under them; to pass from them to their Heirs, on condition that they continued in Service, and never to come into private hands. He concluded, that they would hereby be provoked more industriously to mind their Business, while they fought for the Defence of their own Possessions: and for their further Encouragement, he bestowed upon them Cattel and Slaves, that they might Till their Lands, and thereby, the forsaking of these Territories so near the Enemy,

Sect. 2. through the Poverty or Age of the Possessors, might be prevented. In like manner did *Probus* give much Land in *Isauria* to his old Souldiers, on these terms, that their Sons being eighteen years old, should be sent to the Wars. Of this kind, as one observes, were the *Agri Militibus assignati* mentioned by *Ulpian*; and hence, as well as for other Privileges enjoy'd by the *Veterani*, an Account is given us, that so severe Laws were justly made by several Emperours in after times, to compell the Sons of these old Souldiers to undertake that Service, from which the Fathers were excused.

A. D.

337

And by *Constantine* were made *Comites* of the first Rank.

Dux Britanniarum in this Island.

Comes Britanniarum.

Other *Comites* and *Duces* of the West.

Their Power.

40. But thus we see the *Duces* of the Limits holding Places both of very great Honour and Profit. Several of them were by *Constantine* advanced to be *Comites* of the first Rank, and were by him styled *Comites per Provincias*; and those of this Degree seem rather Superiour to others that enjoyed but the Title of *Speculabiles*, though Inferiour to *Illustrious* Persons, and therefore such as had arrived at this Quality of *Comites*, were in place above other *Duces*, although afterwards, when these Titles came to the *Fendal*, (as we shall see hereafter) the *Duke* became more Honourable than the *Count*. At what time the *Notitia* of the Empire was Composed, there were only two of these *Comitates Rei Militaris* in the East; viz. of *Egypt* and *Isauria*; the rest were called *Duces*, and were thirteen in number. In the times a little before the *Notitia*, here seems to have been in this Island but one, who Executed the Offices of both, with the Title of *Dux Britanniarum*, besides one styled *Comes Tractus Maritimi*; the same with him who afterwards was called *Comes Littoris Saxonici*. But in the *Notitia* are expressed besides this *Comes Littoris Saxonici*, (who was Admiral at that time, and ordained against the Maritime IncurSIONS of the Saxons) both a *Comes* and a *Dux* of Britain. From the Ensigns of the *Dux* his Authority (Images and Names of Towns situate toward the North) it appears, that his Jurisdiction lay toward the Inner parts of the Island, and upon the Northern Frontiers of the Roman pale; and consequently the Government of the *Comes Britanniarum* was chiefly in the Southern Parts: I say Chiefly, for that indeed it appears from his Ensigns (which was the whole Island, and a Building representing the Capital City) and the placing of the whole Province in the *Notitia* under his Disposition; That all that part of Britain which the Romans held, was generally under his Care; and the Government of the *Dux* was rather added for Assistance to him. As for the Forces here maintain'd by the Romans under these Officers, the *Comes Britanniarum* had under his Command MMM Foot, and DC Horse: The *Comes Littoris Saxonici* MMCC Foot, and CC Horse, and the *Dux* XIVM Foot and DCCCC Horse, which reckoned with those of the two *Comites*, make up XIXMCC Foot, and MDCC Horse. This in particular of our own Island. As for the other Provinces of the West, we must adde, that there were four other Military *Comites*, and X *Duces*, appointed for Defence of their Frontiers. The *Comites* were of Italy, *Africa*, *Tingitana*, and *Tractus Argentoratensis*, or the Parts about *Strasbourg*. The *Duces* were of *Mauritania Casariensis*, the *Tripolitani*, *Pannonia Secunda*, *Valeria Ripensis*, *Pannonia Prima*, *Noricum Ripense*, *Rætia Prima & Secunda* (the form of whose Commission *Cassiodorus* hath Exemplified amongst his *Formula*) *Sequanicum Armoricanum*, *Belgica Secunda*, *Germania Prima*, and of the Parts about *Mentz*.

41. The Powers Exercised by *Comes* and *Dux* were of the same nature; though, as it seems from what we have lately hinted concerning Britain, with some Subordination. Both of them had Cognizance of the Matters of Souldiers, having the same Command throughout their Districts, as the *Tribunas* of Legions were wont to have over Military Men: and if *Comites*, they animadverted upon them in the room of the *Magistri Militum*. In the time of the *Notitia* they had the liberty of Lifting their own Souldiers; but *Zeno* the Emperour afterward would have this Privilege nulled, and the Admission of their Souldiers belong to the Prince alone, and perhaps with very good reason. These *Duces* were not made for a time, as other Officers and Magistrates, their Offices being in *perpetuum*. They wore red or purple Coats, were Girt with the Military Girdle, and they alone had Armed Men standing at their backs, when at Meals. For their Expence they had large Allowance. The Prince, when he wrote to them, used these Expressions: *Experientia tua*, *Laudabilitas*, or *Gravitas vestra*. Though the *Comites*, as we said, were higher in place, yet both were of the Degree of *Speculabilis*. Their Ensigns and Officers were almost in every thing proportionably alike. The Officers of both (as the *Princeps*, *Commentariensis*, *Cornicularius*, *Regerendarius*, and the rest formerly mentioned, as belonging to other Powers) had

In so many Provinces, viz. Libya, Thebais, Phœnicia, Euphratenfis, Palestine, Orythina, Mesopotamia, Arabia, Armenia, Mesia Secunda, Scythia, Dacia Ripensis, and Mesia Prima.

See Selden Titles of Honour, Part 2. Ch. 1.

Vide Pancirolium in Not. Imp. orient. c. 139.

Sect. 2. had their Places bestowed on them by the Prince, taking their Patents out of the Office called *Scrinium Libellorum*. At first there lay Appeals from these *Duces* and *Comites* to the *Præfæti Prætorio*, and the *Quæstor* of the Palace; but *Justinian*, by a Constitution, Ordain'd, that thenceforth it should be to the *Magister Officiorum*, and the said *Quæstor*. And by the *Magister Officiorum* they themselves were Judged, except where Custom otherwise prevail'd; as in the Limits of the *East*, *Illyricum*, and the *Thracæ*, where they were Convented before the *Magister Militum*; as also in the *West*, where the *Duces* and *Comites Limitanci* were subject to the *Magistri Militum Præséntales*, concerning whom, and other *Magistri*, it's necessary that we now speak.

By whom
Judged.

Magistri Militum.

Præséntales.

42. *Augustus*, as we formerly related, wrote a Breviary of the Empire with his own hand; in the first part whereof he described the *Militia*; as what Forces were on Foot, and what Fleets were to be found in every place. These Matters being Recorded in certain Tables called *Latercula*, were afterward Transcrib'd into the *Notitia* of the Empire; as by these Tables appear'd, at first were sent to the Government of the Souldiers certain Lieutenants of the Prince, called *Consulares*, either from *Consular* Ornaments, or because they were Chosen from amongst such as had born that Office and Dignity. To these Lieutenants Succeeded others by the Names of *Magistri Militum*, though uncertain by whose Ordination, but such were called *Magistri*, as to whom the Care of some Business of Consequence was especially committed, and their Authority was termed *Magisteria Potestas*. But whereas the *Præfæti Prætorio* had this included in their Extravagant Power, to Order, Censure, and Punish Souldiers and their Officers; *Constantine* taking away most of their Command, Ordained two *Magistri Militum*, the one of Horse and the other of Foot, to have full Authority over Military Men, as *Zosimus* writes; which in the *West* was constantly observ'd. Indeed in the *East*, for the more vigorous Resistance of the Inroads of the Barbarous Nations, *Theodosius* the Elder Created more of these Officers, who were presently reduced to the number of five; but in the *West* two still remained, the one of Horse, the other of Foot; who living in the Court, or Presence of the Prince, were called *Magistri Militum in Præsenti*, or *Præséntales*. These *Magistri* had well nigh the same Power over Souldiers, as the *Præfæti Prætorio* over the Provincials. They Heard and Determined both their Civil and Criminal Matters. Such as Commanded Arms in their stead could only Sentence Common Souldiers, not *Tribunes* nor *Centurions*. The Emperours in their Letters usually saluted them with *Insignis Autoritas tua*, or *Præclara*, or *Illustris Magnificentia tua*, or *Magnitudo*, *Gloria tua*, or the like. The Ensigns of a *Magister Militum Præséntalis* in the *East*, were, a Book of Mandates set on a Table covered with a white Carpet (several Copies have different colours of Book and Carpet) and on a Golden Plate the Faces of the Princes; underneath the Arms and Names of several Regiments Commanded by him. The five *Magistri Militum* in the *East* mentioned by the *Notitia*, Commanded both Horse and Foot, though it was otherwise in the *West*. Of them, two were in *Præsenti*, or Resided at Court; another in the *East*, strictly so called; a fourth in *Thrace*, and a fifth in *Illyricum*; all who Commanded LXX Legions XLI Companies (*Vexillationes*) of Horse, XLI Auxiliary Bands (*Auxilia*) and XII Fleets. How many of each severally, the Reader, if he pleases, may see in the *Notitia*: for to make particular Enumerations would be too tedious.

Sic Magistratus quid sunt in urbe, Arcadius Jureconsultus in præsenti esse dixit, & præsentes eos vocant Arcadius & Honorius. Hinc Prætorium in quo hi Magistri Militum Controrersias, aut Delicta cognoscunt, Præséntium Justinianus vocat, denique Domestici, qui semper Principem comitabantur quandoque Præséntales nominabantur. Vide Pancirovolum in Comment. in Not. utramque C. 31.

Legions,

what.

43. But to the *Militia* it self it's very convenient that we say something: and first of a *Legion*, which had the greatest both Name and Number of all those several Bands or Partics of which it consisted. A *Legion* was so called, as *Varro* and *Nonnius* tell us, à *legendo Milites*, from gathering up the Souldiers Man by Man, as they were Listed; and contained six thousand Foot, and DCCXXXVI Horse, as *Vegetius* observes, though indeed we may find sometimes a greater, and sometimes a lesser number. It was divided into ten *Cohorts*, of which the first was called *Milivaria*, excelling the rest in Riches, Birth, Skill and Valour, and was accompanied by the Eagle (the Standard of the *Romans*) and the Faces of the Princes: Of Footmen it contained MCV, besides CXXXVI Horsemen Arm'd, the rest had each CLV Foot, and LXVI Horse, arm'd with Corsets in the same manner. Hereupon they were all called *Quingenaria Cohortes*; except the Fourth and Seventh which contained DC Foot: but the *Legions* thus framed were so ordered by *Marinus*; whereas before his time, they consisted of MMMM a piece, and thence were Termed *Quadrata*. The *Consuls* of old were wont with two *Legions* to wage War, and with such *Auxiliaries* as were found requisite to be

Legio, quod leguntur Milites in delectu. Varro de Ling. Lat. lib. 4.

to be added to them. He that gave both such Names and Number to the *Legions* A. D. as stuck by them, was *Julius Cæsar*, who with ten *Legions* in nine years subdued *Gall*, and according to the Order and Time of their raising, named them First, Second, Third, &c. which custom continued; but his best beloved was the *Decimiana*, or Tenth, which had shewn most Affection to him. To other *Legions* Names were added upon Occasion; as, that which with the Fourth revolted from *Pompey* to *Cæsar* was by him called *Martia*, for the Reputation it had of Courage. To another he gave the Name of (a) *Alauda*, because the Souldiers thereof wore Helmets crested, like the head of a Lark, or from the *Auspicium* of that Bird, as *Cicero* will have it. *Augustus* having obtained the Monarchy, kept in Pay twenty three *Legions*, or as some say twenty five, as (b) *Dion Cassius* tells us; adding withal, that in his time but nineteen remained; the Names of which he sets down, and observes, that the rest were either disbanded, or by *Augustus* himself or other succeeding Emperours mixed with other *Legions*; whence the name of *Gemellæ*, given to some of them was thought to proceed. If the Reader please to know the Names of all the rest, which by other Emperours were raised till the time of *Dio*; he may further have a view of them in that Historian: but the Number of the *Legions*, as the Names, were changed according to the Pleasure of Princes, or Exigency of Affairs.

44. Some of the *Legionary* Souldiers were ancient men, and bare heavy Armour, as of old the *Macedonians*, viz. round Targets, and *Sarissæ*, or long Lances. Others were young Men called *Velites*, who neither using Breast-plates, nor Bows, nor Targets, cast Missile Weapons afar off, or Stones, either with their Hands, or Slings, in *Legions* called *Pilani*, and out of *Legions*, *Auxilia*; being then procur'd by the *Romans* from their Friends and neighbouring Nations; and least reckoning being made of them, they were most exposed to Danger, and placed in the Front. There were a third sort amongst the *Legionary* Souldiers, they called *Peltati*, of greater Age than the *Velites*, and so called from a light and small Shield, which they used in Fight, together with a shorter sort of Lance, from which the *Romans* more Ancient named them *Hastati*, and those still more modern *Lancearii*. Lastly, there were others, which being most remarkable both for Age, Strength, and Experience, had the Honour to be call'd *Principes*; of which the first was called *Primus Princeps*, the next *Secundus Princeps*, *Tertius*, *Quartus*, &c. accordingly, as there were *Primus*, *Secundus*, and *Tertius Hastatus*, and *Centurio Primipili*, and *Centurio Primi Hastati*; and amongst the *Triarii*, *Primipilus*, *Secundus*, *Tertius*: and from those who were termed *Principes*, were the Heads, or Chief of the Officials, or Officers belonging to the *Presidents*, and other Magistrates, which we have already mentioned, styled also *Principes*, for that there was amongst the said Officers or Attendants, a shew or likeness of the *Militia*. In general, it is to be noted that Anciently none could be admitted a Souldier, that was not of the stature of five Foot and seven Inches, which *Valentinian* in a Constitution (which shall be mentioned in its place) affirms to have been the Custom observ'd from the Founding of the City. And therefore, when *Lampridius* writes, that *Alexander* the Emperour was of the Military size, he is to be understood according to this Measure. For what more might be said of the *Legions*, as to their Number or Names, the Reader may consult *Pancirolus*, who has Exhibited them as he found them Engraven in an old Marble Stone at *Rome*; to which Catalogue he hath added another Table, whence it appears, both at what time, and by whom each of them was raised.

45. From them we shall pass to their Officers; and first take notice, that of old he that had the Command of a *Legion* was called a *Tribune*, and the Principal Officers of the Wings of Horse, a *Præfekt*. To which Places *Augustus* preferr'd young Senators. But in the time of the *Notitia*, and afterwards, we ordinarily meet with *Præfeks* of *Legions* and Fleets, and *Tribunes* of *Cohorts*; yet so as that Name of *Tribune* did still also continue in the former sense, and by *Præfeks* of *Legions* are principally to be understood the Greater sort of *Tribunes*, so named to distinguish them from such as Commanded but a *Cohort* of the *Legion*, or D Foot, and by degrees were Promoted. These Greater Officers heard and determined the civil Controversies of their Souldiers, and did lightly also punish them, so far as to Beating, (as one of them commanded *St. Paul* to be used) but could not pass any Capital Sentence, except in the absence of the *Magister Militum*, or other Superior Officer, whose *Vicars* they were called for this reason, and might Punish as well as they, if they were *Comites* of the first Rank. The Care of Arms and Cloaths for the Souldiers, as well as Discipline, belonged unto them. Other *Tribunes*, which

Sect. 2. which had not arrived at that Honour, might Determine the Matters of their A. D. 337.
Men, and Punish them moderately; but their Authority extended not to Life. The *Tribunes* could give leave to their Souldiers to be absent, but not in time of Expedition or Service, upon Pain of Death. The Higher Sort received their Commissions from the Prince. The Inferiour sort of *Tribunes*, being Ten in number, because so many *Cohorts* in a Legion, were promoted by Succession, as others died, or were removed to Higher Places. After their Example, the Ten *Notaries*, who, under the *Primicerius*, handled the Matters of the greater *Laterculum*, were called *Tribunes*; for they had under them Inferiour Clerks or *Scrinarii*, as these *Tribunes* other Inferiour Officers: whereupon this was termed the *Literata Militia*, because it imitated the *Armata*.

Vexillatio.

What Images
the Romans
used in their
Standard or
Colours.

46. Next after a *Legion* follows that, which, in those dayes they called *Vexillatio*, and it received its name from the Banner or *Vexillum*, the Diminutive of *Vellum*, a square Banner-Roll, used by Emperours and other Generals. These *Vexilla* belonged both to Horse and Foot, being used by the *Romans* as well as the Ensigns, or *Signa*: But to fetch these things higher, *Romulus* for his Ensign or Colour, used only Bundles of Hay tied to the tops of Spears; so humble in all respects were the Beginnings of the *Roman Greatness*. Afterward they had the *Eagle*, *Wolf*, *Minotaur*, and *Boar*, which were borne before, and in the Army, till such time as *Marinus* in his second *Consulship* appointed the *Eagle* for the whole *Legion*, and then the Images of other Creatures became the *Signa* of *Cohorts*, to which were added a *Dragon*, and an *Hand*, and at length a *Ball* or *Globe*, by *Augustus*, to signify that the World was subject to the *Roman Empire*. The *Eagle* at first was of Silver, and being set in a kind of Box or Case, was fixed to a long *Spear* or *Pole*, but afterward, when *Rome* had got the Wealth, as well as the Sovereignty of the World, it turned to Gold, and, as the Armourbearer of *Jupiter*, held a *Thunder-bolt* in its Feet; so that it may seem something Strange, that the *Romans* appointing this Bird to so masculine an Employment, should in their Language subject both Sexes of it to the Feminine Gender. But to our Business, *Vexillatio* is here taken for a Troop, *Turma*, or *Cuneus* of Horse-men fighting under one *Vexillum*, whereon was expressed what Troop it was, of what *Cohort* or *Century*, together with the Prince his Name, and probably his Image: but *Constantine* caused therein to be inserted a Representation of the Cross, which at the time of his Conversion, he saw in the Air, and now came up the word *Labarum*. A *Vexillatio* in a *Legion* contained thirty two Horse, commanded by a *Ducurio*, out of a *Legion*, sometimes three hundred, less or more. An *Ala* of Horse contained also about three hundred men, and seems divided into those Parties called *Turmae*, as *Vexillatio* into the other they named *Cunei*. Now of Horse-men some were *Cataphracti*, who being armed themselves throughout, used also armed Horses; others were of light Armour, as *Hastati* or *Contati*, who fought *Cominus*, with Pikes, or Lances; and such as besides Launces made use of Targets, and were called *Scutati*; and others went under the Name of *Ferentarii*, who fought *Eminus*; and these were, either the *Scythæ* or *Sagittarii*, who fought with Bows and Arrows, as our Archers or *Tarentini*, that used Darts. And such of them as having discharged all their *Missilia*, came afterwards to Hand-strokes, were called *Jaculatores*. The whole *Ala* was commanded by a *Tribune*, who as appears from *Capitolinus*, had sometime also the Name of *Sevir*; and so much of the *Vexillatio*.

Ala of Horse.

Cataphracti.

Hastati.

Ferentarii.

Jaculatores.

Auxilia.

After the time
of Constantine,
all were distin-
guished into
Palatini, *Comi-
tatenfes*, and
*Pseudo-Comita-
tenses*.

47. To add a little concerning the *Auxilia*; there was this difference betwixt them and the *Legions* at first, that *Legions* consisted of *Roman Citizens* only, *Auxilia* of Friends or Allies, and were joyned as *leves Armature* to the *Legions*. But after that the Sovereign Power was transferred upon the Prince, *Legions* were also raised out of Allies and Confederates. A *Legion* had its several Officers, Superior and Subordinate, together with its several Companies and Ensigns. An *Auxilium* was Commanded by one *Tribune*, or *Phylarcha*, alone; and consisted of M, or more, ordinary *Gregarious* Souldiers, and was (as it seemeth) from his Constitutions by *Justinian* called *Optio*, though *Optiones* were also particular Persons. But thus much of these several sorts of Souldiers; of whom the Reader must farther observe, that at what time *Constantine* Constituted three Ranks of *Comites*, there were also Ordained three Orders or Ranks of Souldiers, with new Names or Titles. For all standing Companies, as well of Horse as Foot, were distinguished into *Palatini*, *Comitatenfes*, and *Pseudo-Comitatenfes*. The *Palatini* were such as had obtained the Honour to be of the Guard to the Prince his Palace, and in this respect were in greater Esteem than the rest. The *Comitatenfes* were so named from the *Comitatus*, or Company of the Prince, and having succeeded the *Prætorians*, were

De his vide
Pancirolium in
Notitiam u-
tramque Imp-
sed præcipue Pa-
ratit. Tit. de re
Militari, Go-
thofredi Cod.
Theod.

sect. 2. were in his Court, and waited on him whicheversoever he went. The *Pseudo-Comitatenses* were the rest, imitating them, as it were, in their Officers, Companies and Symbols, but not graced with the same Privileges and Immunities: for both their Allowance was less, and in Case a *Comitatensis* died intestate, and without any apparent Heir, his Company, or Troop was Heir at Law, but the Prince's Treasury succeeded to the *Pseudo-Comitatensis*. To prevent Fraud herein, none could pass from one Order to another without the Prince his special Warrant. In the *Notitia* are reckoned up under the *Magistri Militum Prasentales*, only *Palatina Auxilia*, *Vexillations* of Horse, both *Palatine* and *Comitatenses*; but *Legions*, both *Palatine*, *Comitatenses* and *Pseudo-Comitatenses*. And thus much concerning the Office and Commands of the *Magistri Militum*, who were by Dignity *Illustres*, as reckoned amongst those of Highest Rank, and esteemed equal with the *Præfetti Prætorio*, and the *Præfetti* of both Cities.

A. D.

337.

Vide omnino
Comment. Jacobi
Gothofredi in l. ult. de re
Militari.

Officers that
served the
Emperour in
his Court.

48. And so we have dispatched what the Design of this present Work requires, concerning such Officers as constituted the Polity, and carried on the Government abroad, and in the Provinces. We must of necessity see who they were further, that served the Prince at home, or in his own Court. Of these some took Care of the Business, some of the Person, and the Bed-Chamber of the *Præfectus* and *Primicerius Sacri Cubiculi*; under whom waited the *Comes Sacre Vestis*, and several inferior Officers and Attendants, who had the Name of *Decani*. Some served him at Table, and attended on him in the Palace of Course; as the *Comes Castrensis*, under whose Inspection waited the *Primicerius Mensarum*, the *Primicerius Cellariorum*, the *Primicerius Pedagogiorum*, and the *Primicerius Lampadiorum* of the first, second and third Rank. Some wrote the Secrets of the Prince, viz. three Persons called *Cartularii Cubiculi*, and by some the Palace was kept and attended, viz. three *Decuriones Silentiariorum*, and the *Comes Domorum per Cappadociam*. Of all those the *Præpositus Sacri Cubiculi* was the highest in Place and Degree, for his great Charge of the Emperour's Person, and his Nearness to him, which Relation rais'd him to the highest Dignity of *Illustres*. This he enjoyed before the time of *Theodosius* the younger; yet so as to take place after the P. P. the *Præfetti* of the Cities, the *Magistri Militum*, and the *Comites Consistoriani*, or the *Comes Sacrorum Largitionum*, *Comes rei Private*, the *Quæstor* and *Magister Officiorum*, of whom hereafter. But by a Constitution of that Prince, he was made equal in Degree with the *Præfetti* of both sorts, and the *Magistri Militum*; so as he and they should take Place according to the time and order of their Promotion. And here it will not be amiss to hint to the Reader, that from the Laws are to be observed three Degrees of Illustrious Persons; the first was of the *Consuls* and *Patricians*, who took not their Place according to their Promotion, but preceded others, however of the Degree of *Illustres* before them. The second was of such, as amongst whom the time, and order of Promotion was observ'd, and they took place accordingly, being otherwise equal, and these were the (a) *Præfetti* of both sorts; the *Magistri Militum*, and the *Præpositus Sacri Cubiculi* now under Consideration. The third Rank comprized the *Quæstor*, *Magister Officiorum*, the *Comes S. Largitionum*, and *Comes Rerum Privatarum*, which four, though they were of the Degree of *Illustres* as well as the rest, yet held, as it were an inferior Rank by themselves; so as by the time of Promotion they were not privileged to take place of the other, but had only Precedence amongst themselves; of whom we shall write after we have added something concerning the Attendance of the Prince his Bed-Chamber, leaving the rest of the Court to be spoken of according to their Dignity.

Præpositus Sacri
Cubiculi.

Three Degrees
of Illustrious
Persons.

Notitia Imperii.

Cod. Th. lib. 6
Tit. 8. de Præ-
positis sacri Cu-
biculi & Cod.
Justin. lib. 12.
Tit. 5. Historia
hæc nostra.

(a) Vide Com-
ment. Gothofre-
di in D. L. 6.

(b) Decanos vo-
cant, eo quod
sunt Decus præ-
positi. Aug.
Decani sunt
qui 10 Viris
præsunt. Vegeti-
us. At vero Go-
thofred. dis-

navasas pro
decanis exci-
pere, apprehen-
dere derivat.

Homîn. enim
munus peculiare
fuisse vult quod
in Rep. fuit Li-
ctorum; sed de
his vide L. un.
de Decanis Cod.

Th. lib. 6.
Tit. 33. & Go-
thofr. in L.

qui quatuor ge-
nera Decano-
rum memorat;

positus,

The Cubicula-
rii.

Decani.

49. Those that there waited were called *Cubicularii* and *Ministeriani* from their Services, and this was the general Name; but amongst them some were known by that of (b) *Decani*, perhaps because they were ten in number, as *Pancirolus* guesleth, or else they had under them that number of inferior Waiters, for the word *Decanus* we know signifies one who presides, or commands ten Persons, and thence hath been transferred in a more general Signification, to such as precede other Clerks in Churches, and at this day signifies a *President*, as in the Faculty of *Medicine* at *Paris*, where the *President* of the College they call *Decanus* (in French le *Doyen*), and they have an Officer, who looks to the Physick Schools; the Senior Batchellor of Physick, whom they term *Archidiaconus* (or *Achidiacre*;) such Correspondence in Names, as well as other things, hath there been betwixt the *Militia Armata*, *Palatina*, and *Togata*. But these *Decani* dressed the Emperour, made his Bed, kept the Doors, and did other Services there, as *Pancirolus* guesleth; or rather were a sort of Serjeants at Arms, the chief of them, and who commanded next the *Præ-*

Sect. 2. *positus*. Being him they called *Primicerius*. The next in order to him A. D.

was the *Secundocerus*, then the *Tertiocerus* and *Quartocerus*: as to which Terms *Suidas* writes, that *Primicerius* is the first of an Order or Rank, and that the Addition of *Cerus* is only a lengthening of the word, and further signifies nothing. The *Primicerius Sacri Cubiculi*, was by his place of the Dignity of *Speſtabilis*, which very Title the *Notitia* gives him. Of the *Comes Caſtrenſis*, and other Officers out of the Chamber, we ſhall ſpeak anon. Thoſe of the Chamber enjoyed many Privileges. They were exempted from finding Men and Horſes for War, and from Quartering Souldiers. They were convented, upon occaſion before the *Magiſter Officiorum* (the Supreme Judge of all Courtiers) and needed not put in Bail or give Security, but were committed to the *Primicerius*, who was charged with them, and had reaſon to be good in his Office, for it laſted but two years, at the end whereof, he was ſucceeded by the *Secundocerus*, or him that was next to him. From all ſordid Services they were free, and from Contributions to the Repairing of Bridges, High-wayes, or the like. As all thoſe Officers belonging to the Bed-Chamber enjoyed theſe Privileges, ſo much more the *Præpoſitus Sacri Cubiculi*, who, beſides his Command over theſe and other Perſons, had the overſight of many Houſes and Lands in *Capadocia*, (where a great part of the Prince's Patrimony lay) and ſent his Officers called *Canonicarii* to collect the Rents, which being brought to Court were expended in the Maintenance of the Houſhold.

Their Privileges.

The Magiſter Officiorum.

50. He that held the next place in Court after the *Præpoſitus Sacri Cubiculi*, was the *Magiſter Officiorum*. Under *Conſtantine* the Great he was both called *Tribunus* and *Magiſter Officiorum*; ſometimes in the Laws *Comes Officiorum*; for he was in *Comitatu Principis*, and ſtood by him in the *Conſiſtory* with other Perſons of the Greateſt Quality. He had his Name from his Command over the Officers or Servants of the Prince; for *Officia* here is to be taken for the ſame as *Minifteria*. *Zoſimus* and *Procopius* call him the Captain or Governour of the *Palatine* Ranks or Orders. And he had not only Authority over the Courtiers and Attendants of the Prince, and ſuch Companies about the Palace as were in Arms, but had the overſight alſo of *Fabricks* or Forges, and power over the *Limitaneous Duces* and *Comites*, from whom appeal lay to the *Queſtor* and Him. His Duty it was to preſent fit *Senators* to the Prince in the Provinces (as appears from *Caffiodorus*, who in the Forme of his

Inde Tamiaca Prædia dicta, ſed vide infra hujus. Cap. 5. 4. Par. 51.

Nomen officia eſſe multa ſignificat hic pro miniſterio accipitur, ut apud Martianum, vide Pancirolium in Not. Orient. C. 63.

His Employment. Patent ſets forth the Nature of his Employment) none could be made Judges without his Approbation; and in the City he had an hand in the making of ſuch Officers as took care of Proviſions. By his means Audience was procured from the Emperor, both to his own Subjects and Strangers, whom it was his duty to entertain. He alſo had the Power of the *Cuſus Publicus* or Poſtage, which was permitted to no Subjects, but the *Præfeſtus Prætorio*, and himſelf. They could grant in the Prince his Name, Liberty of this *Cuſus* to others; and if any offended in this kind, it was incumbent upon him to preſent their names to the Prince. But to come more Particularly to Perſons, or things over which

ariarum. Lib. 61. C. 6.

Perſons under his Jurisdiction, as ſeveral Scholes.

this *Magiſter* had Power or Jurisdiction: He of the *Eaſt* overſaw Eight Colleges, Bodies, or Companies of Armed Men about the Court, which in thoſe days they termed *Schole*. Of theſe, Two were called *Scutarii*; the Third *Gentiles Seniores*; the Fourth *Scrutarii Sagittarii*; the Fifth *Scutarii Clibanarii*; the Sixth *Armatura Juniorum*; the Seventh *Gentiles Juniores*; and the Eighth *Agentes in Rebus*, and the Deputies of this *Schole*. Beſides theſe, were under his Command the *Menſores* and *Lampadii*; Four *Scrinia* or Offices, viz. *Memoria*, *Epiftolarum*, *Libellorum* & *Diſpoſitionum*; the Office of *Admiſſions*; Fifteen *Fabricks* or *Forges*; whereof of the *Eaſt* five, *Pontica* three, *Aſia* one, *Thrace* two, and *Illyricum* four; And laſtly, two *Comites* of the Limits, and thirteen *Duces*. The Command of him of the *Weſt* (when the Empire came to be divided, was, if the State thereof admitted it, the ſame, though as to Numbers it might differ: For here were Nineteen *Fabricks*, whereas in the *Eaſt* were but Fifteen.

Sect. 2. 51. Of the *Scholæ* or Companies about the Court, it's requisite we A. D.

Scholæ what.

say something; for a distinct Knowledge of those several sorts which bore

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Arms under the Emperor. This word *Schola* (more frequently it's *Scholæ* in the Plural Number, as *Festus* only hath it) was much used in those Times to signifie a Body, Company or Society. And *Gregory of Tours*, the Bishop and Historian, by it signifies an whole Household; but here it is taken for a whole Rank, Order or Company of the Emperor's Guards, who (most of them) bore Arms for his Defence: but were neither *Legions*, *Cohorts*, *Vexillations*, nor *Auxilia*. There were of these *Scholares*, sometimes divided into nine *Scholæ*, about M M M D Choise Men, *menians* at first, to which afterward M M more were added by *Justinian*, and called *Supernumeraries*, who (besides the *Agentes in Rebus* here reckoned, who were not Fighting Men, no more than another Company called *Silentarii*) were for Protection of the Prince his Person. Great Care was had, who were admitted into these *Scholæ*, till *Zeno* the Emperor first broke the Custom, by giving way to Idle and Effeminate Persons. Afterward *Justinian* (if we give credit to that secret History, which goes under the name of *Procopius*) sold these Places, and having filled up the number, added the two thousand *Supernumeraries*, to whom he gave no Pay. To be sure none could be admitted without the Emperor's Approbation; and therefore their Names were Inrolled in the Offices belonging to the Greater *Laterculum*; and the List called over, and renewed every four Months, at what time such as came in, received their Patents from those Notaries, written by them, and subscribed by the Prince. They were not permitted to hire any Grounds, lest they should be diverted from their Attendance. Each *Schola* had its *Comes* for its Chiefest Officer, of the Dignity of *Speſtabilis*, and under him others Inferior, as the *Primicerius*, who had also the Title of a *Tribune*, and was *Speſtabilis* too; The *Secundocerus* and other Nine, who succeeded by times, and with him were of the Degree of *Clarissimi*. As for the Names of the Eight particular *Scholæ*, the *Scutarii* seem so named from their Targets, which they especially used in Defence of the Emperor's Person; and to have been first Raised by *Constantine*, who assigned Bread, both to them and the *Clibanarii*. The *Gentiles* were raised out of Barbarous Nations, not yet converted to Christianity. The *Scutarii Sagittarii* were Armed *Cap à pie*, and used Bows and Arrows. The *Scutarii Clibanarii* were *Cataphracti*, both they and their Horses being Armed, and seem also first Instituted by *Constantine*. The *Armaturæ* were such as used solid Armour. For *Ælian* distinguisheth Footmen into the three several sorts of *Armaturæ*, *Velites* and *Peltati*. Here is well added *Juniorum*; for the *Armatura Seniorum* served in the *West*, in the *Notitia* whereof only six *Scholæ* are mentioned.

Eight several *Scholæ*.

Scutarii, Equites.
Scutati Pedites.

That of the *Agentes in Rebus*.

But the Eighth and last *Schola*, was that of the *Agentes in Rebus*, of which more is to be said, as of that which is more remarkable, and of a different Nature from the rest. These *Agentes* were, till the time of *Constantine* called *Fruementarii*, and were the Messengers of the Prince sent, as occasion served, upon several Errands into the Provinces. Probable it is, that they took their former Name from the Resemblance that their Employment bore to that of the *Fruementarii* of the *Legions*: for as they went up and down to gather Corn or Forage for the Army; so they bestirred themselves throughout the Provinces, to give an account to the Emperor how matters stood therein, and to signifie his Pleasure and Commands to such, as to whom they were directed. Afterwards from Executing the Prince his Orders they got that of *Agentes in Rebus*: For upon many Errands were they sent: as to hasten the Payment of the Publick Revenue, to cause Armies to March, to fetch any Publick Records, to carry Letters from the Emperor to the Magistrates, and Answers from the Magistrates to him. So great were their Labours and Watches in this, and other kinds, that they alone seemed to undergo the Toil of the Publick Service; and as such, and so necessary and serviceable they are owned in several Laws. Amongst them there were five Degrees; the Scope and Reward whereof was, that of those they called *Principes* or *Primates* of the Officers of the *Præfæti Prætorio*, of the Governour of a Province, or the Greater sort of Magistrates; to which

Their Name and Duty.

De Agentibus in Rebus Vide Tit. 27. & 28. Lib. 6. Cod. Th. & Tit. 20. & 21. Lib. 12. Cod. Justin. & omnino Paratit. Gothofredi d. Tit. 27. Cod. Th. De his etiam scriptus Aurelius Victor in Dioclesiano, & Ammianus passim; sed Historia hæc nostra plene. In Rebus, id est, in negotiis Publicis exequendis.

Sect. 2. which they arrived, as the reward of their Labours, after great *Fatigue* and *Trouble*, and often not without great peril of their Lives: But having obtained this Honour, their Dignity and Privileges were great and many. For they were *Senators*, and having formerly had precedence allow'd them before *Rationales*, and with *Consulares*; they were joyned with Vicars, and at length made equal to *Proconsuls*. Yet, being reckoned amongst *Senators*, they were free from the Duties of such, as the *Glebalis Functio*, and at their Promotion might put their Sons or Brothers into their places of *Agentes*. The first Degree, and from which they arose, was that of the *Ducenarii*; the second were the *Centenarii*; the third the *Biarche*; the fourth the *Civitores*; and the fifth the *Equites*, which was the first step to preferment; all the ordinary sort being known by the General term of *Tyrones*; as the other distinctions were taken from the several distinct Titles and Offices of the *Milliaria*, or first *Cohort* of a *Legion*. They all enjoyed various Privileges. As it was a part of their care to see that none made use of the *Cursus Publicus* without leave obtained; so because of their continual Travel, the convenience thereof was allowed them, by the Prince or *Magister Officiorum*: They were free from Burthens and Employments in Cities, if they had served a certain number of years. They were not forced to be *Navicularii*, except their Birth compelled them, or that they had Lands that were burthened with that service. And the Privileges of Souldiers they also enjoyed, as they used the Military Habit; if found Criminal, they were judged according to their desert, by the *Magister Officiorum*.

Their Privileges.

The Schole of the *Silentiarii*.

53. There was besides these another *Schole*, which though set by the *Notitia* under the Direction of the *Præpositus Cubiculi*; yet was also judged by this *Magister*; and therefore having purposely omitted it, we shall here take notice of it with some remarques. And this is that of the *Silentiarii*. They were so called, not because they were *Secretaries* to the Prince, as some imagined, but from *Silence*, which it was their Task to procure in the Court: and for this end they waited before the Emperor's Chamber, when he was in *Consistory*, or sat in *Council*; and that before the second *Velum*, or Hanging. for there were two of these Hangings or Curtains, at the first whereof Petitioners, or such as had any Business at the *Consistory*, gave their Attendance; and the second was before the Prince his Chamber, and near the *Consistory* which from this Silence got to be called *Silentium*, or *Silentiarium*, and not only it, but the Debate it self which therein was held. Watching before the Emperor's Chamber, it's supposed, they bore Arms, and so were a sort of the Armed *Palatine Militia*; in which respect they enjoyed the Privilege of the *Castrense Peculium*; and being so near to his Person, they were by him sent and Employed upon sundry Affairs. Particularly it's found, that when Persons of Note, upon Notable occasions have been sent for up to Court, they were the Messengers: though sometimes it might exceed, yet the set and appointed Number of them was *Thirty*, which being divided into three Parties, each of these Parties had its *Decurio* or Officer; who as he presided over them, so it was his Charge to look to the Marshalling of the Train of the Emperor or Empress, when they went abroad. These *Decuriones* had Great Privileges conferred on them by several Princes. By *Theodosius* the Elder they had place given them with *Exduces*, because indeed they were a kind of such, and reckoned among the *Senatores Adlecti*, or such as had the Honour and Dignity of *Senators*, but were free from the Burthens and Impositions laid upon that Order; which Privilege *Theodosius* his Grandson afterward extended to the *Silentiarii*, after they had served diligently their full time, or thirteen years. These Burthens were the *Glebalis Collatio* formerly spoken to, and that of the *Prætorship*; and besides, they were also excused from the *Metatus*, as it was called, or Quartering of Souldiers, or others upon publick Employment, though *Illustrious* Persons, who in this respect had more indulged to them, than was permitted to their Inferiours. But the Emperor appropriates these Privileges to the *Thirty Silentiarii*, and their three *Decuriones*, denying them to *Supernumeraries*, in case there should be any. Long after *Justinian* (or rather *Tribonian*) increased the Dignity of the *Decuriones*, when their Term was expired, by conferring on them the Dignity of a *Magister Officiorum*, or *Comes Domesticorum*, so that whereas formerly they were of the Degree of *Clarissimi*, and then *Specstabiles*, by this means they became *Illustres*.

Their Privileges.

Mensores their work.

54. Now to come to such other Officers as were more directly under the Command of the *Magister Officiorum*, & leave the rest to their more proper places. The *Notitia* presents us with the *Mensores* and *Lampadarii*; the *Mensores*, often also called *Metatores*,

De *Silentiariis*
vide Tit. 23.
Lib. 6. Cod.
Theodof. de
Decurionibus
& *Silentiariis*,
& que notan-
tur ad varias
LL. & *Panci-*
rolum in *Noti-*
orient. cap. 61.
Eorum multi
scriptores pas-
sim meminere,
inter quos *Pro-*
copius Agathias
ἡνὶ ἀμφοὶ τὸν
βασιλέα σιγῆς
ἐπιστάται.

Adlecti sunt
imunes, &
παράλληλως
πονούνται *Ad-*
lecti & *immu-*
nes ut ex LL.
edocet *Gothofri-*
dus.

Sect. 2. were such as provided Quarters or Lodging for the Emperour, or his Army upon any Journey or Expedition, in Towns or Cities; and in the Field chose out and prepared the Ground for incamping. As to quartering or lodging in Towns, it was the manner of these *Mensores*, as of Harbingers at this day, to fix upon the Doors the Names of such persons as were there to be received. The Landlords or Owners of the Houses were obliged only to afford them the third part of their Lodgings, except the persons entertain'd were *Illustrious*, and then they were to allow them one half. And if it hapned that such as were to find Quarter were of the Dignity of *Illustrious*, and had several Houses, they were allowed to keep their own dwelling Houses to themselves, but leave the other to be disposed of for Quarters. Neither were any excused, except some few privileged persons, from this Duty, but as well the private Houses and Grounds of ordinary men in the Country, as the Lodgings of Citizens were obnoxious to it. Now when the Emperour was to travel, his *Gests* were published two Months before, and therein every days Journey appointed and limited, with the hour of his setting forth, the Mansions where he would bait or lie, and where the Provisions of the Army were to be received; these were the *Mensores* of most account in Law-Books. Others there are mentioned under this Name, who served at Court, and are thought to have provided Dye for the Courtiers, and, as Aveners, Hay and Provender for their Horses. These also were to be approved of by the Prince in the *Scrinium Libellorum*; and their *Primicerius*, or Chief of them, after two years service, was permitted to enter himself as a *Tyro*, or the lowest of all in the *Schole* of the *Agentes in Rebus*. And besides these the *Magistri Militum* had their own *Mensores* or Quarter-Masters, who provided Quarters for the Souldiers under their Command; but they are not of this sort under present consideration.

A. D.

337.

De modo Metatorum, Vide Paratitlon, Tit. 1. Lib. 7. Cod. Th. et L. L. ibi citatas. Hillo iam hanc nostram.

Vide Panciro- lum ad Notit. Imp. Orient. C. 65.

Lampadarii.

Admissionales.

How the Em- perour was saluted.

55. The *Lampadarii*, mentioned in the *Notitia* with the *Mensores*, were those that took care of providing Lamps or Lights, not only for the Court or Palace, but for the several Offices hereafter to be spoken of: the Clerks of which often sitting up very late, had occasion to use many of them. The Principal, or *Primicerius* of them held his place three years, and then others succeeded him in order. Besides these Officers under the inspection of the *Magister Officiorum*, and the four *Scrinia* (of which it's more proper to speak hereafter, because, though they were under his inspection, yet they had Masters also of their own, of three of whom the *Notitia* treats, amongst those of the Palace, that were of the degree of *Specabilis*) the Office of *Admissions* was, appears both from the *Notitia* and *Cassiodorus*, under his Command. Those that belonged to this Office were called *Admissionales*, and had also a Master of their own by the name of *Admissionum Magister*; because it was their duty to admit and introduce such as came before the Emperour, and those that had the Honour to do their obeisance, salute, or as the *Latine* word is, *Adore him*. But this Adoration was little more than what we use to our Princes at this day, viz. a kneeling to them, and bowing the Head; which being in use with the Subjects of *Persia*, and others, at length was required by the *Roman* Emperours. But long it was ere it became solemn and constant at *Rome*: for though *Caligula*, *Domitian*, and *Heliogabalus* would be so worshipped, yet other Princes either neglected it, or forbade it (as *Alexander Severus*, who would have no such Honour paid to him) till *Dioclesian*, who admitted it again, and thenceforth it became a constant Ceremony, and was received by the Christian Emperours; whereas his Predecessors, as *Ammianus* tells us, were wont to be saluted no otherwise than the Judges. But as modern Princes (more condescending) are wont to give their Hands, the border of the Emperours Robe or Purple was usually held and offered (in *Procopius* his time by two persons) up to be touched and kissed, whence these manners of Speech often occur in the Books of Law, and others; not only *Adorare Imperium*, *Adorare Principem*, and the like; but *Adorare Purpuram*, *Purpuram attingere*, and *Muricem adorare*. Of this Ceremony, as is evident from the *Notitia* and the *Code* of *Theodosius*, there were several Methods, according to the Quality of the persons that were received and introduced by these *Admissionales*, who, as we said, were under the Jurisdiction of the *Magister Officiorum*, together with another sort called *Invitatores*, whose Duty it was to invite such as should eat with the Emperour, or fetch others to him upon other occasions. Of these the *Notitia* maketh no mention; but being joyned together with the *Admissionales* in a Constitution of the Emperour *Leo*, we think it (with *Panciro- lus*) convenient enough here to say, that there were such men.

Lib. 15.

Lib. 6. Tit. 8. Lunic. de Prae positis sacri Cubiculi: ubi vi de qua Gotho- fredus Commem-

56. But the next and especial charge of the *Magister Officium* were the several *Fabricae*

Sect. 2. *Fabricæ*, or Forges; and of these the *Notitia* makes ample mention, reckoning up those that belonged to the several Countries. These *Fabricæ* were places wherein

Forges, or places for making of Armour.

Arms were made and provided for the Army, usually in the Provinces not far distant from the Borders; for there was of them the greatest need. In every of them

all sorts of Arms or Weapons were not made, or that but rarely; but each *Fabricæ* was appropriate to some particular kind, as that called *Scutaria*, to the making of Armour for Defence and Protection of the Body, as Targets, Back and Breast, Hel-

mets, and the like; and (*a*) *Clibanaria* to those that were proper to the *Cataphracti*, of whom we lately spake. When the Arms were perfected, they were then remitted

to the publick Magazine, and there reserved for use, it being unlawful for any to buy or sell them, or make any elsewhere: such as wrought them had the name of

Fabricenses, being men chosen out of such as were not obnoxious to any Duties, or Employments in Corporations, which being made out before the *President* of the

Province, or the Magistrate of the Town, they were admitted into the Company, and to publick Salary; For each *Fabricæ* had its Company or Body apart, wherein,

after the manner of the Offices at Court, there were four or five more Eminent, who received greater Wages than the rest; and of these the first had the Title of

Primicerius; who at the end of two years was discharged of his Office (the next succeeding him) and the Employment also; and was admitted amongst those they

called *Proteiores*, to salute or adore the Emperour after the manner we're while described; but all of them were subject to a *Tribune*; he who presided over every

Forge, being called by this Name, as appears from *Ammianus Marcellinus*. The Materials for making these Arms the Provincials brought in, both the Ore of Iron and

Brass, and also Coals; and in some parts of the East, Money, instead of the Materials themselves, till notice was taken by *Theodosius* the Great, and how by this

means there was much abuse committed (the Workmen receiving the money, and for their own gain, buying what was cheapest) he commanded expressly, that the

payment of these Materials should thenceforth ever be made in Kind. And as hereby he obviated the covetous practices of these *Fabricenses*, *Arcadius* his Son

by another Law prevented their Idleness, and deserting the Publick Works; commanding that they should have *Stigmata*, or marks set upon their Arms, as *Tyro-*

nes, or new Souldiers were wont to have, that thereby, if they concealed themselves, they might be discovered: for the Employment they could not leave, till

such time as they had passed through all Degrees, and had discharged the Office of *Primicerius*, neither could their Children be excused from it. If any of them fled

or made away what he had, the rest of the Body were answerable for him: and upon this account, if any of them died without Heirs, his Estate fell to the Com-

pany. To encourage them, besides the Honour they obtained after their discharge, they enjoyed other Privileges, being free from the burthen of Quarter,

lately mentioned, and having the *Magister Officiorum* alone for their Judge. We shall add further concerning these *Fabricenses*, that amongst them there were a sort

of men called *Barbaricarii*, the business of whom it was to cover or adorn Helmets, their Beavers or Crests with Brass, Gold or Silver, resembling men, and various

sorts of other Animals, after the fashion of *Barbarians*. These, in respect of the Weapons they dealt with, are sometimes by the *Notitia*, and the Laws, placed

under the Jurisdiction of the *Magister Officiorum*, and by reason of the Metals with which they covered or adorned them, under that of the *Comes Sacrarum*

Largitionum. And besides in every Forge there was another kind of persons, whom they called *Deputati*, thought to be Slaves condemned to Drudgery,

or hired Servants, who brought in Wood and Coals, if they were not the Clerks of the Works rather, as some of the Emperours seem to make

them.

57. Such being the Employment of the *Magister Officiorum*, so various, and at such a distance those Things and Persons that were under his charge, it was necessary he should be furnished with plenty of Under-Officers, Messengers especially; and for this cause it was fit, that the *Agentes in Rebus* should be under

his Command, and out of their Company it was, that his Office was furnished. The first of these was he that gave both the Name and Office of *Adjutor*; for his Adjutant he was, or rather his Deputy in dispatching all his business. This person

was presented by the *Magister* to the Prince, and by word of his mouth received Authority to act. Such Pleas or Trials as were to be held before the *Magister* he

managed, as the *Recorder* now before the *Mayor* of a Corporation, and was of that Esteem as to have the Title given him of *Clarissimus*, and sometimes of *Spectabilis*; and having discharged his Office was of equal Dignity with such as had been

Vicars

The Privileges of those that served in them

The Office of the *Magister Officiorum* furnished out of the *Agentes in Rebus*.

Adjutor.

A. D. 337.

Fabricæ in quibus Arma fabricabantur.

De his Consul. Cod. Theod. lib. 1. tit. 22. de Fabricensibus. Novell. Theod.

43. de Bonis Publicis. Cod. Justin.

11. tit. 10. Ad. Comment. Gothofr. in l. 1. item Paratit. Cod. Theod. lib. 1. tit. 1. & Paratit. in Not. Imper. Orient. C. C. 66, 67, &c.

(a) Clibanaria voce Pers. a clibanus.

De Stigmatibus. P. 1. hic non est locus, sed de Stigmatibus Nota, seu Notitia.

Vide infra Historiam hanc nostram.

Barbaricarii dicti sunt ex Barbarico opere, & ornamento. Vide de his l. 1. Tit. de Fabricensibus, cum Comment.

De Deputatis Consul. Paratit. volum. uti supra. C. 75.

Notitia Imp. Vide Leges citatas in Notit. Dignitatum. Cod. Theod. ad hujus Magistratus officium spectant. Paratit. in Notit. Imp. Orient. C. 71.

Sect. 2.
Subadjuvæ.

Vicars, or the *Principes* of the *Agentes in Rebus*. The *Adjutor* also, for his Assistance in so weighty an employment, had two *Subadjuvæ*. Besides, from amongst the said *Agentes in Rebus*, this *Magister* of the *East* had three *Auditors*, who received the Accounts of the *Fabricks*, as many, who received them of the *Barbaricarii* lately mentioned; and five others, who looked to the Works in the so many Provinces within his Jurisdiction of the *East*, *Asia*, *Pontus*, *Thrace* and *Illyricum*, and took exact notice of, and recorded what number of Arms, and of what sort were every day made; how many removed to the Magazine; of the Wages due to Workmen, and other Expences. In the time when the *Notitia* was written there were so many; but the Emperour *Leo* much encreased the Number of the *Subadjuvæ* for the *Fabricks*. But further, for Intelligence, and Communication betwixt him, and those in the Provinces, and that the *Cursus Publicus*, or Postage might not be abused, out of the same Company one attended him by the Name of *Curiosus*, who making his abode at *Constantinople*, and being ever in waiting, was called *Præsentalis*; and besides him in each Province was one of these *Curiosi*, under the care and over-sight of the *Magistri Officiorum*, both in *East* and *West*, when the Empire came to be divided. Their employment much resembled that of the *Agentes in Rebus*, from the *Schola*, or Company of whom, by a Law of *Constantine's*, they might only be created. They gave Intelligence of whatsoever was done in the Provinces, and from their Care hereof, and of the *Cursus*, were also termed *Curagendarii*, and by some the *Eyes of the Prince*, but put no man to Death, nor carried any to Prison, nor collected any Tributes, as the *Frumentarii* or *Agentes* seem to have done. Their principal care was of the *Cursus Publicus*, or Postage, which they managed so, as they were to suffer none, without leave, to use it. Concerning them there is an whole Title in the *Code of Theodosius*, out of which more hereafter upon occasion.

Curiosus.

A. D.

337.

Lib. 6. tit. 29.

Interpretes diversarum Gentium.

The *Cursus Publicus* under the *Magister officiorum*.

58. The last Officers or Attendants of the *Magister Officiorum* mentioned by the *Notitia* are the Interpreters of divers Nations, by which the Emperour and he conversed with Strangers, heard the Proposals of Ambassadors, and returned them Answers. And at last it concludes what's to be said of him at present (for several other inferior Court-Officers, and under his Jurisdiction, come after, which it meddles not with till it hath dispatched the Greater or Illustrious) with telling us, that he grants out Licenses for the publick *Cursus*, or Carriage, which as we have several times hinted, no Subject but the *Præfæctus Prætorio* and himself could do; none of the Judges, not the *Præfæcti* of the Cities, not the *Magistri Militum*, *Duces* or *Vicars*, as *Gratian* the Emperour expresseth it. Of this *Cursus Publicus* therefore, having not done it under the *Præfæcti Prætorio*, here it's convenient that we say something. The use of the *Cursus* amongst the *Persians* is very evident; and if credit may be given to *Herodotus*, first by them invented. *Xenophon* particularly ascribes it unto *Cyrus*; who, as he saith, considering how far an Horse could run in one day, took order for the building of Inns and Stables at such a distance; and in them placed such Horses of Course, and men to manage them, taking care that there should be a sufficient number to receive Letters, to deliver them to the next Post, and entertaining such Horses and Riders as were wearied and spent, send fresh Horses on the same errand. This (a) Course being used both night and day, seemed to exceed the swiftness of Cranes, at least was of all Journeys the most speedy. (b) *Herodotus* saith the same thing, and describes it in the same manner; adds that the *Persians* called it *Angareion*; others call these swift Messengers of theirs *Angari*, who in the same Language were also known by the name of *Astandæ*, and held no ignoble or mean place in the Commonwealth; as is concluded (c) by some from the practice of *Darius* the last King, who *Plutarch* reports more than once, executed this Office (possibly of Overseer, or Manager of it) in the Reigns of his Predecessors *Ochus* and *Arjes*. Thus much concerning the *Persians* is evident, but when, and by whom this practice was entertained by the *Romans*, is not so clear. The Writers of the Imperial History herein not well agreeing amongst themselves. For *Suetonius* attributes the *Cursus*, both by men and carriages to *Augustus*. *Sextus Aurelius Victor* makes *Trajan* Author of the *Cursus*. *Spartianus* writes, that *Trajan* instituted the *Cursus Fiscalis*, or that belonging to the Treasury, and how *Severus* altered that by Carriages from the hands of private men into the Exchequer. But thus this difference may seem to be reconciled: *Augustus* ordained the *Cursus* by *Vehicula* or Carriages; so as when such came on a sudden, as had License to make use of them, the Municipal Magistrates furnished them at the charge of the Country. This was found such a burthen, that *Nerva*, when he came to the Government remitted it to *Italy*, as appears by his Coins; and either *Trajan* or *Adrian*,

(a) Τῶν δὲ ὕψους γιγνομένων φασὶ τινὲς δάσασον τῶν γαργαλῶν ταύτην τὴν πορείαν αὐτέων εἶ δὲ τὸ αὐτὸ αὐτῶν τὰς ἀλλ' ὅτι γὰρ ἀνδρῶν πίνων περὶ ποταμῶν ταχίστην τὴν ἑυδελον.

(b) τὸ αὐτὸ ὅτι δὲ αὐτῶν τῶν ἰσχυρῶν καλέουσιν. Lib. 8. c. 98.

(c) Vide Brissonii de Regno Persarum, l. 1. Vide Commentum Jacobi Gothofredi. in l. 1. tit. 5.

Lib. 8. Cod. Theodosii c. in l. 5 lib. 6. tit. 29. d. curiosus.

not

By whom first instituted.

Sect. 2. not long after made this *Cursus* settled, Constant, and Publick or *Fiscal*, viz. at the Publick Disbursement; so, as upon any sudden occasion publick Carriages and Cattel were at hand, and the Magistrates were no more put to that charge and trouble. Now was the *Cursus* become settled and constant; yet still did the Country by a Tax maintain the charge thereof; which burthen was so heavy, that *Antoninus Pius*, out of his commiseration, gave ease herein to the oppressed; and at last *Severus*, that he might make himself acceptable to his Subjects, removed it from private hands to the Treasury, or remitted the Tax laid upon the people, & transferred the charge from the private to the publick Purse. But much more hereafter concerning the *Cursus Publicus*.

A. D.
327.

*Posthac cum se
vellet commen-
dare hominibus,
vehicularium
munus a
Privatis ad
Fiscum trans-
xit.*

The *Questor*
Palatii.

59. The next Officer was the *Questor* of the Palace. The ancient *Questors*, being by *Augustus* trusted with the Decrees of the Senate, afterwards had the Office of reciting the Prince his Letters, and what was transacted in the Senate: and under the later Emperours their power still encreased; for they administered Justice in their stead; To them and the *Præfatus Prætorio*, sometimes to them alone, such Causes being committed. In short, executing all things in a manner under their Name, they became *Illustrious* in Title, and under the Reign of *Constantine* received that of *Quæstores Palatii*, being little inferiour to the *Præfati Prætorio*: For they composed Laws and Edicts that were to be published, and Mandates that issued out to the Presidents, with the Rescripts of the Emperours, which were not held valid, except They subscribed them. Now Laws and Edicts thus confirmed were sent to the *Comes Dispositionum* to be transcribed and kept in his Office, and then were by an Edict of the *Præfatus Prætorio* exposed to view in some *Forum* or publick Place; otherwise no man was bound to the observance of them. They were laid also to be published when they were read in the Senate by the *Primicerius* of the *Notaries*, or the *Proconsul*. At *Constantinople* they were usually read in the Suburb *Septimus*, called also, *Secundianus*, for which *Pancirolus* observes, that *Septies recitata* by a mistake is often read in Law-Books, and accordingly to be amended. At *Rome* they were published in the *Pantleon*, in the *Forum* of *Trajan*, that of *Apronianus*, or the *Atrium* of *Minerva*. For their longer duration they were written in Brass, or in Tables of Ceruss called *Tabulæ Cernisatæ*, or in Linnen Cloth called *Lintæ Mappæ*, or by *Encarstum* or burning of Letters; which four sorts were in Use in the time of *Constantine*, who also, as *Gothofred* observes, makes mention of Marble-Tables in Use in the same Age. Yet were not Edicts written in Brass, but some of the other ways recorded, according to the Custom of the *Prætors*. They were sent into all Cities, and exposed there to be read, for 30 days, as *Pancirolus* observes particularly, that *Josephus* takes notice in the Edict of *Claudius*.

*De hoc officio
omnibus aliis
consule Panci-
rolum & Gotho-
fredum.*

His Employ-
ment.

The manner
of framing
Edicts.

*Quin varies
lo. is. hanc con-
stitutionem Prin-
cipum recita-
re solent, vel
lectæ, vel propo-
sitæ: Vide omni-
no Gothofred. in
l. 3. de bonis
vacantibus.*

*Cod. Th. lib. 10.
tit. 8.*

*Idem Comment.
super eadem Gotho-
fred. in l. 1. Cod.
Th. lib. 11. tit.
27. Pancirolus.*

60. At the framing of them the Emperours were wont to consult with Lawyers, sometimes thirty, sometimes more; but the *Questor's* duty was to advise them, both in matters of Law and other things, so that if there were any over-sight committed, the fault was laid on him. He oversaw the Lesser *Laterculum*, wherein were Registered *Tribuneships*, the Commands of Castles and the Borders, and, together with the *Præfatus Prætorio in Comitatu*, received Appeals made from the Judges, called *Spectabiles*, to the Prince. *Cassiodorus* (to whom *Gothofred* refers us for the description of this Office) hath a *Formula* of the *Questorship*, which seems to us to excell all such of his others, as we have read, in Elegancy. Herein especially are required knowledge of the Laws, and Eloquence; but the main business is to express well the meaning or intention of the Prince; to be his Mouth to the People, or, as it wordeth it, the Voice of his Tongue, which yet to be, it esteems a piece of great difficulty. If the Prince was in doubt of any matter, it was expected the *Questor* should resolve it; he being the Treasury of the publick Fame, the Magazine of Laws, and prepared for any sudden occasion. Nothing being more excellent, as *Tully*, the Master of Eloquence said, than to be able by Language to lay hold of the minds of men, to allure their Wills, and to move and draw them whither and whence one pleaseth. The *Questorship* is termed by this Patent, the Glory of Learning, the Temple of Civility, the Mother of all Dignities, the Habitation of Continency, and the seat of all Vertues. To him that exercised the place, the Provinces sent up their Requests, the Senate sought for Resolution in Law-Matters, and such as were themselves Learned, expected to find what they knew before. To come towards a period of what concerns the *Questor*. From the beginning, and under *Valentinian* the Elder, his place was before *Proconsuls*, yet was not then of the Dignity of *Illustis*, though afterward he obtained this Honour. Suitably he was in Acclamations as the *P. Pr.* styled *Father of the Empire*, *Magnificus* and *Gloriosissimus*, and from Princes received that of *Sublimitas*, and others wont to be given to *Illustrious* Persons. His Arms were on a Table covered with a Carpet down to the ground, a Book with a Golden Cover, whereon, in a Square, was seen the Picture of the Prince, and toward the left hand a Roll

Varian. l. 6. c. 5.

*Questuram toto
considerari, vultus,
quæ: notitæ
linguæ, et docem
off. C. n. m. s.
Quoniam ardu-
um est subitum
verba dominan-
tis assimere, lo-
qui posse quod
nostrum creda-
tur!*

*Clandianus
Pœta de Mal-
lio Theodoro
qui hoc officio
functus est.*

*Teris
Edicta d. tu-
rus, Supplicibus
responja venis.
Oracula Regis
Eloquio crevere
tuo, nec dignis
unquam Ma-
jestas meminit se-
se Romana locu-
tam.*

How *Cassiodo-
rus* describes
the Office of
the *Questor*.

His Place.

His Ensigns.

Sect. 2. of Papers supposed to contain the Edicts of Laws published by him in the Emperours name. And this, as the Great Seal or Purse with our *Chancellors* or *Keepers* stood by him when he sat in Court, and, perhaps, was borne before him, as *Pancirolus* guesses: and now it was, that the Acclamations was made of his being the Father of his Country as was usual to the *P. Prætorio*. The *Notitia* saith expressly, that he had no *Officium*, but Assistants out of the *Scrinia*, or Offices, as he pleased; which *Pancirolus* interprets to have been Twelve *Notaries* out of the *Scrinium Memoriae*; Seven out of the *Scrinium Epistolarum*, and as many out of the *Scrinium Libellorum*; which being Twenty six in number, he used in the writing of Rescripts, his Proceedings and Laws; and they had the Title of *Viri Devoti*. Lastly, it's observable, that *Justinian* instituted another sort of *Quæstors*, to inquire into the Cause of the coming of Countrymen into the City to decide their Matters, and send them home in the twelfth year of his Reign. But indeed, he rather restored than first introduced these Officers, who also took care, that Solicitors of Law-Suits received not immoderate Fees; and for that purpose had their Apparitors and Assessors.

A. D.

337.

idem observat. Gothofred. ex l. 17. de Proxi-
mis.Another sort
of *Quæstors*.The *Comes Sa-
crarium Lari-
tionum*.When institu-
ted.Whence so
called.

61. But to the most ancient *Quæstors* succeeded, in time, the *Comes Sacrarum Largitionum*. *Augustus* in room of them sent certain *Procurators* chosen out of the *Libertini*, or *Equites* into the Provinces; who, gathering the publick Revenue, received a Salary from him, and were styled *Procuratores Augustales*. They decided Causes belonging to the Revenue, and sometimes governed Provinces, if not very large; and of this sort was *Portius Pilate* in *Judea*, where a *Procurator* was in the room of a *President*. But for management of the publick Treasury at *Rome*, from the time of *Augustus*, down to *Constantine*, there were sometimes *Quæstors*, most commonly others, who had the Name of *Præfetti Aerarii*; *Constantine*, when he came to the Government, changed the management of the Treasury, by introducing two new sorts of Magistrates, who should order the whole income; whereof the one was called *Comes Largitionum*, and the other *Comes Rerum Privatarum*. This *Pancirolus* ascribes to *Constantine*, although by guess, as we may judge; for the most Learned *Gothofred* affirms, that by all the Laws he cannot find any of these Officers under that Emperor. However, probable enough it is, that he brought them up: for by the *Judiculus* which *Gothofred* gives us of the *Comites Largitionum* mentioned in the Code of *Theodosius*, there is one who executed this Office in the time of his Son *Constans*, and another during the Reign of *Julian*; as about the same time, others, who bore the place of *Comes Rerum Privatarum*. The *Comes Largitionum* had first his name à *Largitionibus*, from the free gifts of the Prince; and held it, when his work was quite altered, as much from what it was then, as the Chief *Treasurer* of a Nation differs from an *Almoner*. Though indeed the Gifts of the Roman Emperours were so great and frequent, that the management of them may seem far to surpass the care and trouble of the Revenue of any Nation now in being, which formerly was but a Member of that Empire. And so necessary they were, that *Augustus* in his *Rationarium* of the Empire, or Book which he composed with his own Hand, together with the publick Treasure and other things, wherein the strength of the State consisted; the Fleets, Kingdoms, Provinces, Tributes and Tolls; therein made mention of the *Necessitates* and *Largitiones*; by the former meaning his necessary, by the later his free and voluntary Expenses.

vide Pancirolum in Not. Imp. orient. c. 73.

62. At first the Emperours made use of a Candidate of the *Questorship*, or some other Courtier, who paid such Assignments of Bounty, as they made out of their Privie Purse, till *Alexander Severus* brought in those they called *Aerarii*. These Acts of Bounty were chiefly upon occasion of some publick Rejoycing, and were called *Congiaria*; probably from the carrying of the Money in *Congis* (that sort of Vessels) into the *Forum*. This course to please the People, was much practised by *Augustus*, and after by his Successors imitated, till *Constantine*, as was said, for the distribution of his Bounty, brought in this Officer, who from the *Largitiones* or Gifts, had his name. Before his time the *Congiaria* and Feastings were the usual ways, whereby the Princes carressed the people. In and after his time, they used several other Courses. *Pancirolus* takes notice, that a pound of Gold was wont to be given to the *Alitercha*, that he might not cut down the Cypress Trees, as he was wont, in the Grove of *Daphne*. Ten pounds of Gold were given by *Justinian* out of the Revenue of *Phœnicia* to the *Primicerius Notariorum*: but a set and solemn sort of Bounty they used on *New-years-Day*, on which it was the Custom for them to give New-years-Gifts to the *Comites* of the *Consistory*, and others; as with the late Emperours, to present the *Senate* and *Officers* of the Army on *Easter-Day*. Besides these, this *Comes* paid Souldiers and others their Wages; and thence had the Name, not only of *Largitionum*, but *Remunerationum Comes*. To these were added *Comes Sacri Aerarii*, *Thesaurorum Curator*, or *Præfectus Imperialium Pecuniarum*, *Quæstor*, and the like; for to him was also committed the care of collecting and keeping the Publick Revenue arising by tributes and customs.

His work.

• Sect. 2. 63. The Revenue by Customs was either greater, or lesser, according to the Co- A. D. 337.
 vetousness, Occasions, or Humours of the Princes. In the Reign of *Heliogabalus*, the tenth part of the value of Wares was exacted, which *Alexander* reduced to the thirtieth, or little more than three in a hundred; and this gave Occasion to the stamping of *half Aurei*, and the third part of an *Aureus*; all Payments of this Nature being in those days made in Gold. But succeeding Princes would have the eighth part of the Value, or little more than twelve in the hundred. And for Tribute the Subject paid what the Emperour, or *Præfectus Prætorio* demanded, or as the custom of the Countreys was, (as was formerly said) which being in kind was laid up in the publick Store-houses, for the Maintenance of the Armies, and relief of the Poor: but the Money arising from the Customs and Tributes was the charge of the *Comes Largitionum*. The *Jews* paid a *Didrachm* for every Head, which being imposed in the room of that, which was wont to be paid to the Temple, *Theodosius* commanded to be also received by him, as that Impost called *Capitatio* upon Country-men, was wont to be. Now that this *Comes* might the better discharge so vast an Office, for procurement of the Payment of the Revenue, he sent some Officers under him, of those Officers, or Notaries that attended him, called *Imitendarii*, into all the Provinces, to constrain the *Præsidents*, or Governours to gather, and pay the Money; who for this purpose named one, or two of their own Office, as *Procurators* to attend. Besides there were others called *Tractatores*, who as *Auditors* took their Accounts, and every four Months sent them up with the Money to the *Comes*.

• • 64. But there were many Officers in the Provinces, which the *Notitia* placeth under his Disposition, or Command. As first, in the five Dioceses of the *East*, so many; who were also styled *Comites Largitionum*, though but of the third Degree or Rank of *Comites*; for they were but *Perfectissimæ*. The Dioceses are in the *Notitia* set down in general, without any Enumeration, or certain Number; but *Pancirolos* will have them six, viz. the known ones; the *East* strictly so called, *Ægypt*, *Assiana*, *Pontica*, *Thracia*, and *Macedonia*. Besides these the *Notitia* mentions others called *Comites Commerciorum*, through the *East* and *Ægypt*, through *Mæsia*, *Scythia*, *Pontus* and *Illyricum*. being four in Number, as he computes. These were tradesmen, or Overseers of such, who bought up Materials for the Emperour's or Emperess's wearing, as Silk, Wool, Flax, Purple, Skins, or other Materials, and provided Jewels and Pearl, Ointments and Silver. It was their Work also to see, that all Duties were paid by Merchants, for which purpose they had Officers under them, called *Stationarii*, in Places of Traffick: for out of the Customs it was, that Gift-Money and Wages were paid. Moreover, they look'd that no forbidden Commodities, as Gold, Iron, Grinding Stones, Armes, Salt, Corne, Wine, Oyl, or other things were carried out of the Empire to *Barbarians*; whom they neither permitted to traffick in the Empire, nor the Emperour's Subjects in their Territories. Next after these *Comites*, the *Notitia* mentions the *Præfecti Thesaurorum* under Command of the *Comes Largitionum*. These were the Treasurers of every Province, who kept the Money of each *Distric*t, and separate from the rest, till it was sent up to him, having received it from the *Decuriones*; for in each City this was the Course of raising Money imposed by way of Tax: There was one *Decurio*, or Alderman chosen out to be Receiver, and accordingly had the name of *Susceptor*, who received what was required by way of Tax of every one after it was gathered, and paid in to him by the *Ducenarii* and *Sexagenarii* Apparitors, to whom the *Tabularius*, or Clerk so called, gave out the Rolls. The *Susceptor* gave an *Apocha*, or Acquittance to him that paid him, wherein was expresed the name of the Payer, the sum, the Cause of the Payment, the Day, Moneth and *Consul*; as in like manner did the *Stationarii*, to those of whom they received the Custom, and then sent away the Money to the *Præsident*, by whom it was conveyed to the *Thesaurenses*. These *Præfecti* being in Places of so great Trust, were not admitted, no more than the other *Thesaurenses*, but in the *Scrinium Epistolurum*, by Commission signed with the Prince his own Hand; nor without having first given sufficient Caution for their honest Deportment.

• • 65. Next after these *Præfecti Thesaurorum*, is reckoned the *Comes Metallorum* *vide Goth. in L. L. 3. 4. de Metallis & Metallariis Cod. Th. lib. 10. Tit. 19.* through *Illyricum*, who exacted the Portion of Gold due to the Emperour, from such as gathered it, either in Rivers, or Mines, according to the Customs of Places; eight or seven Scruples, or Carats by the year, not in melted Gold, but in the Oar. He is named of *Illyricum*, because there, as in *Macedonia* and the neighbouring Countries, was great plenty of Metals, and there the Emperour had also Mines of his own; the Overseers of which were chosen out of the *Curiales*, or best men

Seft. 2. men of the Cities under Command of this Comes. After him follows one termed *A. D.*

the Comes, or Rationalis Summarum of Ægypt. He was sent into that Country to inquire after those they called *Bona caduca, Escheats* or Goods which any other way fell to the Exchequer, having at first no Jurisdiction; but afterwards, there being found Reason to employ him in business of very great Moment, his Dignity increased so, that he obtained the Title of *Comes*, and of *Rationalis Summarum*. For in those days, and long after, till the finding out of the way into the *East-Indies* by Sea, there being a vast Trade driven in *Ægypt* out of *India* and *Arabia*, for Silks, Pretious Stones, Pearl and Spices, and thereupon vast Customs arising; it was thought fit to employ such an Officer, and to gain him Respect by such a Title and Character of *Comes, Rationalis*, and *Procurator*. It was the Custom for a *Rationalis* to go very well habited, as appears by a Story out of *Ammianus*; how a Barber being sent for, to cut the Hair of *Julian* the Emperour, one came to him so spruce and fine, that he was amazed, and said, I did not send for a *Rationalis*, but for a Barber. In the *West* there were eleven *Rationales* made in several Provinces; but in the *East* this of *Ægypt* is only mentioned, so that *Pancirolos* concludes, that either something is wanting in the *Notitia*, or else the under-Comites *Largitionum* in the other Provinces supplied their Places.

66. Next follow in the Catalogue of Officers Subject to the Command of the *Comes*, they who went under the Name of *Magistri Lineæ* (or *Lintæ*) *Vestis*; these were the Overseers of such as wrought in Linnen, for the furnishing of the Court with Necessaries made of that Stuff, which Workmen were of the Quality of those they called *Conditionales*; that is, *they and their Children were perpetually obnoxious to this Work and Service*. These *Magistri*, both took Care for preparing the several sorts of Linnen, and when made kept a Wardrobe of them, of which the Inventory was preserved in the *Scrinium Sacri Vestiarii*, written by the *Primicerius* of that Office. In the *West*, instead of these *Magistri Lineæ Vestis*, there was one that bore the Title of *Comes Vestiarii*, who provided and kept the Linnen as the other did; and by some is reckoned amongst the *Cubicularii*, or those of the Bed-Chamber. After

these *Magistri* come the *Magistri Privæ Vestis*, or Masters of the Privy Robes, who had the charge of providing those that were made of other things than Linnen, as of Silk and Woollen, for the Prince his use. They are also by *Constantine* termed *Procuratores*; and by Reason of the great things in their Charge, were to give Caution before their Admittance. Next follow the *Procuratores Gynæciorum*, so called from the *Gynæcia*, or inward Rooms, where Women as well as others wove Hangings, and other things of Silk, or Gold and Silk together; of which Works these *Procuratores* had the Charge, and gave Caution also at their first Admittance. Those that sewed under them being sometimes Slaves, but however otherwise free Persons, yet condemned (both they and their Posterity) to this Service. The *Procuratores Baphnorum*, or of those Work-houses where Wool or Silk was died, follow next. The Work-houses were many throughout the Empire; but those of most esteem were in *Phœnicia*, for the dying of Purple, the Sale of which was forbidden, it being unlawful for any but the Prince to buy it; and those Dyers were of the sort of *Conditionales* also, being condemned with their Posterity to this Drudgery. Then doth the *Notitia* mention the *Procuratores Monetarii*, or those who under our *Comes Largitionum* took Care of the Mints, or coining of Money. In the *West*, as we formerly said, it reckons up six Places that had publick Mints, of which each had it's *Procurator*; but how many were in the *East* it doth not express; though we have formerly taken notice of some Cities, that had this Privilege.

67. Here it will not be inconvenient to say something of the value of the *Roman* Coin: And first of the lowest sort, or that of Brass. Their *Æs* therefore, or most Antient Money, was first stamped by *Servius Tullius*, whereas formerly it was distinguished only by Weight, and not by any Image. And first the Image was that of Cattle or *Pecus*, whence it was called *Pecunia*. Afterward, it had on one side the Beak of a Ship, on the other a *Janus*, or double Body, and such were the stamps of the *Æs*: for as for the *Triens*, *Quadrans*, and *Sextans*, they had the Impression of a Boat upon them. A long time did the *Romans* use this kind, and no other Money, till after the War with *Pyrrhus*, in the CCCCLXXXIII year of the City, and five before the first *Punic* War, Silver began to be Coined. The Stamps upon the Silver *Denarii*, or Pennies, are, for the most part Waggons, with two or four Cattle in them, on the one side, and on the other the Head of *Rome*, with an Helmet. The *Victoriatii* have the Image of Victory sitting: the *Sestertii* usually *Castor* and *Pollux* on the one side, and both sorts, on the other part, the Image of the City;

Prepositus etiam Monetæ, & Magistratus Artis.

Greewood de antiquis Romanorum Nummis

Sect. 2. ty; so the Custom continued during the Commonwealth. *Augustus* caused *Capri-*
 When Gold. *corn* to be set upon his Coin; and the Succeeding Emperours ordinarily their own
 Images. Last of all came up Coin of Gold, which was first stamped sixty two
 years after that of Silver, in the *Consulship* of *Claudius Nero*, and *M. Livius Salina-*
tor, with the same Stamp and Images; which to our Learned Countryman *Brere-*
wood seems to have been the Reason, why Golden Coines are also sometimes term-
 ed *Denarii* by the *Romans*. So much for the Original of the several sorts of Coins;
 now, more particularly, of the several kinds. First, of the Brass, from this named
 Author, to whose Discourse nothing is now to be added, except it be this; that
 the *Romans* had a greater sort of Money mix'd of Brass and Silver, called *Majorina*,
 as is observable out of the Code of *Theodosius*.

Several sorts
of Brass-Coin.

68. The *As* was so named, *quasi Æs*, or Brass, being of that Metal, and at first
 consisted of a Pound-weight, till in the first *Punick* War, the People being sore-
 ly oppressed by Debt, caused of one, six to be made, and yet to be of the same va-
 lue. In the second *Punick* War, *Annibal* sorely pressing upon them, in the *Disla-*
torship of *Fabius Maximus*, they were reduced to one half, or to consist of an
 ounce apiece; and in conclusion, by the Law of *Papyrius*, brought down to half
 an Ounce, and so continued. Now the *As* contained the tenth part of the *Dena-*
rius; and was in value of our Money *ob. q^a*. The *Semissis*, or *Semies*, half as much.
 The *Triens* was the third part of the *As*, and the *Quadrans* the fourth, by some
 called *Triuncis* and *Teruntius*, because it contained three ounces before the value
 was diminished. The *Sextans*, or sixth part was that which every Head contribu-
 ted to the Funeral of *Menenius Agrippa*, but these were not thought sufficient for
 use, and therefore there were other Pieces made, as the *Uncia*, or twelfth part of
 the Pound, the *Scmuncia*, of the weight of four *Drachms*, and the *Sextula*, or sixth
 part of an ounce. These were the Coins lesser than the *As*, anciently used by the
Romans in their Traffick; but there are greater than the *As* mentioned, (he tells
 us) by *Varro*, as the *Decussis*, which was of the value of *Ten*, or of a *Denarius*; the
Vicessis, of two *Denarii*; the *Trecessis*, of three; and they arose as high as *Cen-*
tussis, than which there was no word that contained more of Brass Money.
 This contained an hundred *Asses*, was worth ten Silver *Denarii*, and of our Mo-
 ney 6 s. 3 d.

Of Silver.

The old *Dena-*
rius.

The new.

Bigatus &
Quadrigatus.

Sestertius.

Nummus.
Obolus.

Libella.

Sembella.
Terantius.

Golden Coins.

69. For the Silver Money, the old *Denarius* was so named, because it contained
denos aris or *asses*; viz. ten *Asses*, though its Weight and value was not at all times
 alike. For the old *Roman Denarius*, during the Commonwealth, weighed the se-
 venth part of an ounce; and was in value of our Money 8 d. ob. c. with 1 c; but
 the new *Denarius*, which came up in the time of *Claudius*, or a little before,
 weighed exactly an Attick Drachm; so that the *Greek* Writers, when they speak
 of it, for every *Denarius* mention a Drachm; which of our Money was of the
 Value of 7 d. ob. Now, with reference to this new sort of *Denarius*, are compu-
 tations made generally; and if respect be had to the Ancienter Times, when the
 old, and true one was in use, then are all Reckonings to be increased one se-
 venth part; for, so much did the Old exceed the New. Now know, that when
 you meet with *Bigatus* and *Quadrigatus*, they are the same with a *Denarius*, so cal-
 led, because it had the *Bigæ* and *Quadrigæ* stamped upon it. There was another
 Coin called *Victoriatus*, from the Image of Victory seen upon it, first stamped at
Rome, by a Law of *Clodius*, which was in value half a *Denarius*; and therefore
 it was also called *Quinariis*, as containing the value of five *Asses*, and was worth
 3 d. ob. q. The next that follows, and, which makes most Noise in Books is, the
Sestertius, so called *quasi Sesquitertius*, because it contained two *Asses* and an half,
 being the half of a *Victoriatus*, and the fourth of a *Denarius*. In Writers it's often
 called absolutely by the name of *Nummus*, because it was in most frequent use,
 as also *Sesterti*. *Nummus*, being worth of our present Money but 1 d. ob. q^a. q. The
Obolus was the sixth part of a *Denarius* (equal to the Attick *Obolus*) and therefore
 by *Celsus* is called *Sextans*, as *Brerewood* quotes him, being as much as 1 d. q^a. The
Libella was the tenth part of *Denarius*, and equal in value to the *As*, so called as
 a little Pound, because supposed to equal a pound of Brass. It was but of our
 Money worth ob. q^a. The *Sembella*, as if written *Semilibella*, was half this. And
 lastly, the *Teruntius* was the fortieth part of a *Denarius*; so named, because it was
 worth three ounces of Brass. It was the least Silver-Coin in use with the *Romans*,
 at least, that is met with in Books, being as inconsiderable in value, as next to no-
 thing.

70. To come at last to the Golden Coins; those most Remarkable were the *Au-*
rei Denarii; so styled, because either the same Images were stamped upon them as
 upon

Sect. 2. upon the *Denarii*, or because in bulk they do much resemble them. From such of them as Time hath not Consumed, it appears, that the old *Aureus*, stamped during the Commonwealth, weighed two Silver *Denarii*; so as forty two were made of one Pound of Gold. It weighed two *Drachms* with $\frac{1}{2}$; and was worth of our Money 17 s. 1 d. ob. q^a. The Newer *Aureus*, stamped about the beginning of the Emperours, was lighter than the former, one seventh part, weighing two *Drachms*, so as forty eight were made of one Pound of Gold; so that in Weight they equalled one of our Rose-Nobles, being worth about as much, or 15 s. of our present Money. Thus they continued *Didrachmi* for the time of the five first *Cæsars*, till *Nero's* Reign, and then by the Fraud and Avarice of Princes were made lighter, at first, in *Nero's* time, but two or three Granes; then under *Galba* they wanted a little more; and those of *Nerva*, *Trajan* and *Adrian* want no fewer than eight. But the *Aurei* that *Tessalus* stamped, want ten Granes in Weight; as also those of *Antoninus Pius*, *M. Aurelius*, *Severus*, and others. And for *Domitian* it may be said, that he restored to these *Aurei* in his time the full Weight of two *Drachms*. But so the *Roman Aurei* continued, either *Didrachmi* or thereabouts, till the Reign of *Alexander Severus*; and he caused to be Coined the *Semissis*, or *Half-Aureus*, consisting of one *Drachm*, as also the *Tremissis*, or *Triens*, or Third Part; the one being worth 7 s. 6 d. and the other 5 s. of our Money: and so the Mint went till *Aurelian* Reigned; who again returned to the *Aureus* two *Drachms*; and so this Coin continued as long as *Rome* continued to be the Seat of the Empire.

71. *Constantine* the Great brought the Weight of the *Aureus* down in his Mints from two *Drachms* to one, and a seventh part; so that it weighed exactly the weight of the old Silver *Roman Denarius*; for he caused seven to be made of one Ounce, or Eighty four of a Pound; yet Ordering each to consist of four Scruples, as he saith in his Edict, by a new way of Reckoning, twenty Granes and a half to a Scruple. This new *Aureus* was after his time, by Greek Writers, called *Nomisma*, (as *Solidus* by the Romans, being of our Money in value 8 s. 6 d. ob. q^a. & $\frac{1}{2}$ q.) Such *Aurei* continued in use till the Reign of *Valentinian*, who caused others to be stamped, that were something more heavy; for he Ordered that Six should be made of one Ounce of Gold, whereupon by the Greeks it was called *Hexagion*, and by others *Sextula*. These contained four Scruples, or one *Drachm* and $\frac{1}{2}$ apiece; so as seventy two were made of an Ounce of Gold. And such were the *Aurei Solidi* in the time of *Justinian*; and so they seem to have continued till the last; except, when by the Avarice of Princes they have been made lighter, as *Brierwood* upon Trial found in the Coins of several Emperours; but the just Weight was four Scruples, and so they were of the value of our 10 s. There being also stamped by *Valentinian* the *Semissis*, or half of the *Aureus*, the *Triens*, or Third part, and the *Scrupulum*, or fourth part of this *Aureus Solidus*, which abated proportionably in value.

72. To make this Matter compleat, we must add what Silver and Brass-Coins were in use at *Constantinople*, after the Translation of the Empire thither. There was that they called *Miliarisum*, which weighed two *Drachms*, being worth the eighth part of an *Aureus Solidus*, and of our present Money 1 s. 3 d. The greater *Silique*, or *Cerates*, contained half of the value of this, or 7 d. ob. The *Silique*, or *Ceratium Simplex*, being the twenty fourth part in value of the *Solidus Aureus*, was worth of our present Coin 5 d. These were Silver. Then was there of Brass or Iron-Coin, the *Follis*, so called, because it was beaten out like a Leaf. It was worth the twelfth part of a *Silique*. Such were the *Roman* Coins, the Names of which our *Brierwood* could discover in Antiquity. It remains, that something be said of the Marks of certain Coins, by which they may be known in Antient Writers, and the Sums by which they usually reckoned. Because the *A* was at first (as hath been said) of a Pound weight, it is thus expressed **Λ**, and the *Sestertius*, because it contained in value two pounds of Brass and a half, thus **HS**, or **HS**. The mark of the *Quinarus*, or *Victoriatas* was **Λ**, and of the *Denarius* X or $\frac{1}{2}$.

73. Now for the Sums, there were three in use amongst the Romans. First, *Sestertium*, in the Neuter Gender, according to the Vulgar Opinion, which contained a thousand *Sestertii*; so much as in the time of *Augustus* it was lawful to spend at a Wedding-Feast. The next was the *Libra*, or Pound, which contained of Silver two lve Ounces, or ninety six *Drachms*, or later *Denarii*, and was worth of our Money 3 l. The third was the *Talent*, which contained twenty four *Sestertia*, and six thousand later *Denarii*, being the same with the *Attique Talent*. For, the Names

of

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The New Aureus.

How it varied under several Emperours.

Nomisma. Aureus Solidus.

Silver and Brass-Coins at Constantinople.

Sums of Money.

Sed Consule quod scripsit Jacobus Gothofredus in L. unde Oblatione. Votorum Cod. Th. l. 7. tit. 24. Hic aliter Valentiniani Faustum interpretatur, adeo ut non Aureorum pondus imminutum sit, verum numerus tantum Solidorum imminutus in Libram, & sic Libra ipsa imminuta. Vide Hist. hunc nostram infra.

Sect. 2. of Talent, Mina, and Drachm, the Romans took from the Greeks, as those from them the other of *Libra* and *Uncia*. This was worth of our present Money 187 l. 10 s. There often occurs also the mention of *Sportula*, which was of the value of ten *Sesterces* and 1 s. 6 d. ob. q^a. These were the Sums by which they reckoned. But, as for the *Sestertium* in the Neuter Gender, Mr. Brierwood observes, that it's not to be found in any Antient Author in the Singular Number, as now it is used. And the reason brought why it should be termed *Sestertium*, because it contained two Pounds of Silver and a half, is not good: for a thousand *Sesterces* make up 7 l. 16 s. 3 d. whereas the two Pounds and a half amount but to 7 l. 10 s. But the Plural Number *Sestertia* is often met with, and in this sense, as containing a thousand *Sestertii*. However, in reckoning by *Sesterces*, the Romans had an Art, which may be known by these three Rules. The first is, that if a Numeral Noun agree in Case, Number and Gender with *Sestertius*, then it denotes precisely so many *Sestertii*, as *Decem Sestertii*, just so many. The second is this; If a Numeral Noun of another Case be joyned with the Genitive Plural of *Sestertius*, as *Sestertiūm*, it denotes so many thousand; as for Example, *Decem Sestertiūm* signifies ten thousand *Sestertii*. Lastly, If the Adverb Numeral be joyned, it denotes so many hundred thousand, as *Decies Sestertiūm* signifies ten hundred thousand *Sesterces*; or if the Adverb Numeral be put by it self, it is of the same signification, as *Decies*, or *Viagesies*, so many hundred thousand *Sestertii*, or, as they say, an hundred *Sestertia*. It's easie to see here in Reading Authors very Learned Men have been mistaken, for want either of Knowing or Observing these Rules. But thus much of the Roman Coins, from the Learned Brierwood, to which, upon occasion something may be added. Now to return.

Three Rules
about *Sesterces*.

*Prepositi Ba-
stagarum.*

74. Next to the *Procuratores Monetarum* (under whom such as wrought were also, with their Wives and Children obnoxious ever to that Service.) The *Notitia* mentions the *Prepositi Bastagarum*, as also obedient to the *Comes Largitionum*. By *Bastaga*, or *Bastagma* is meant a Duty of Conveyance, or carriage of things belonging to the Publick, or to the Prince. Of such as were obnoxious to this Service, some Discharged it by Water, as the *Navicularii*, of whom heretofore; and some by Land, by Mules or Horses. The *Tertiocerus* of the Office of this *Magister*, gave order for the *Bastagæ*, of which each had its *Prepositus*, or Overseer. The last sort of Officers under Command of the *Comes Largitionum*, mentioned by the *Notitia*, are the *Procuratores Linificiorum*, whose Duty it was to procure Flax for the Service of the Prince and Court, as it was the Task of the *Magistri Linæ Vestis*, to get it Cleaned, Wrought, and made up into such Cloths or other things as use required. All those Officers were obedient to the Command of the *Comes*, but had distinct Charges of their own, not being his Attendants, or his Servants. But he had an *Officium*, or number of Attendants, being Secretaries or Clerks, who took the Accounts of those forementioned Persons. Those wrote in ten several *Scrinia* or Offices, and were termed, the *Militia Literata*, and *Palatini*, because they lived in the Prince his Palace, being Excused from Sordid Employments, and the finding of Souldiers. The which *Officium*, or Attendance had its *Primicerius*; there were also the *Secundo-cerus*, *Tertiocerus*, and *Quartocerus*; and each *Scrinium*, or particular Chamber, had its *Primicerius* also. The *Primicerius* of the whole Attendance, and the three next under him, enjoyed the Dignity of the *Prætorian Tribunes*, being permitted to Salute the Prince, and adore the Purple, as they phrased it; nay the *Primicerii* afterwards had the Honour of *Enconsulares*.

A Basilica
Porto.

The Comes Re-
rum Privata-
rum.

75. To omit the Description of the Nature of these several *Scrinia*, as also the Arms of this *Comes*, as too tedious, which the Reader, if he please, may find in *Pancirolos*. The next Great Officer, and of the Dignity of *Illustris*, was the *Comes Rerum Privatarum*. The Emperours, very anciently, had such as took care of their Private Estates, or Patrimonies, especially the *Rationalis* of *Alexandria*; but *Severus*, after the Overthrow of *Albinus*, Confiscating the Estates of an infinite number of Persons that had taken his part, gave original to this Officer, setting one more certain; who in Books goes under many Names and Titles: as *Cæsaris Procurator*, or *Curator*; *Rationalis*, *Procurator Privatae Rationis*, *Magister Rei Privatae*, *Rationalis Summæ Rei*, *Domus Procurator*, *Comes Rei Dominiæ*, *Imperatoris Domus Præfectus*, *Comes Rerum Privatarum*, *Imperialium Thesaurorum Curator*, *Imperialium Pecuniarum Privatarum Quæstor*, *Comes Illustris Aerarii Privati*, and others. He of the East had the Charge and Government of all the Prince his Patrimony, or Demesne, especially his Lands in *Asia*, *Pontica*, *Cappadocia*, *Mesopotamia*, *Osroena* and other

(a) Vide etiam
*Notitiam Dige-
nitatum Codi-
cis Theodosiani.*

(b) Comitiva
*Privatarum, si-
cut Nominis ip-
sus sentitur*
Vocabulum; per
Rationalium
*Curam quon-
dam Principum*
privatam
*ferunt Guber-
nasse substanti-
am.*

(c) Cassiodorus
var. lib. 6.
S. vide Pan-
cirolum in Not.
et Notit. Cod.
Theodosiani in
hoc Comit.

Señt. 2. other Regions; together with the Parks, those Lands called *Emphyteutica Prædia*, the Husbandmen, the Flocks, Herds, and other things. For the better Discharge whereof, he had Command over the *Presidents* of the Provinces, and ordered all the private Accounts. Most anciently he that discharged this Employment was but

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337.

His Employment before he came to be *Comes*.

of *Equestrian* Dignity; sometimes but a *Libertus*. Before they arrived at the Dignity of *Comites*, they judged only Slaves, Vilains, and such as belonged to the Lands of the Emperour, with his *Bona Emphyteutica*, or such things as were brought to the Treasury, and had Power over their own Train or Attendants. But after these *Procurators* came to be *Comites*, they had Cognisance of Incest; and took Care, that Sepulchres were not violated, as *Cassiodorus* in the *Formula* of this Office gives us to understand. In this Commission the King further tells this *Comes*, that it is his part to direct the *Canonicarii*, or such as gathered the *Canones*, or Payments due from Lands, to call upon the Tenants, and take Cognisance of those Goods, or Estates called *Bona Caduca*. Moreover, that it was his part to recover to the Treasury such Money as was casually found, and owned no private Master. Though the Laws, as *Brossius* observes, gave such Treasure to the Finder.

Vide de hac re luculentam formulam Cassiodori.

Primum tibi contra nefarias Libidines, & Humani generis improbos Appetitus, quasi Parenti Publico decreta Custodia est &c.

Vide quæ tibi Commissa sunt. Castitas Viventium & securitas Mortuorum.

Afterward.

76. Farther, from Corrupted Judges he recovered the Triple value in Pecuniary Matters, in Capitals their whole Estates. From the *Cohortales*, or Officers of Courts, four-fold the Sum they had Exacted of such as went to Law. Publick and Navigable Rivers also seem to have been under his Inspection, because said to be in the Patrimony of the Prince. He paid Artificers their Wages, and for the Family of the Emperour and Empress, he found Provisions; without his knowledge nothing belonging to the Private Estate of the Prince could be Alienated, not so much as by the *Præfect* of the City. Before him were Tryed such Gifts, as were said to be given by the Prince out of Publick Debts, and without him nothing could by Petition be obtain'd. He had under him *Rationales* or *Procuratores*, for gathering of Moneys, from whom there lay Appeal to him: and if the Business was not worth so great a Journey, he might Delegate the Governour of the Province to Hear and Determine the Matter. The Treasury which belonged to the *Comes Largitionum* was properly called *Ærarium*; and that wherein this *Comes Rerum Privatarum* kept his Money, was termed his *Arca* or Coffer, and also *Fiscus*: although the Terms of *Ærarium* and *Fiscus* be often Confounded, and one taken for the other: Neither doth *Fiscus* signifie all Private Matters belonging to the Prince, not extending to his Lands, but relating to forfeited Estates, or such as fell for want of Heirs, and certain Tolls or Customs. This *Comes* had in his Court a certain number of Advocates, who obtain'd from the Emperour *Anastasius* the Privilege when they left Pleading, to be styled *Clarissimi*, and to be esteemed *Comites* of the first Rank.

Officers under him.

77. He also, as we hinted, like as the *Comes Largitionum*, had his *Rationales* or *Procuratores* in all Provinces, to receive all the Estates Confiscate, or any other way appertaining to his Office. In order hereunto, this Course was observ'd: First, He in whose hands such Goods or Estates at present were, was Cited to Appear, which if he did within thirty dayes, he was heard; paying to the *Primicerius* of the Office, and to the Advocates, four *Solidi*. In case no man appear'd, the Goods were seized, yet the Interest of the Possessor still saved; so as if he yet came he might still be heard. The *Comes* first declaring, that he challenged the Estate. Then did the *Rationales* Inventory the Goods, and seized on them in the Emperour's behalf, which Action they termed *Incorporatio*: and lastly, fixed Bills or Titles on his Lands, which should give notice of the same. To these *Rationales* also belonged the Care of the Emperour's Houses, the Lands *Patrimonial* and *Emphyteutical*, the Recovery of Treasure found; and if any one sued for any thing belonging to the Prince before any Judge, it ought not to be without the Knowledge and Presence of a *Rationalis*. Next to the *Rationalis*, the *Notitia* placeth the *Basileus Privatus* under the Disposition of this *Comes*: for he commanded those Carriages which conveyed the Private or Patrimonial Matters of the Prince; over which, *Pancirolos* thinks, that as in the *West*, so in the *East* there were two Overseers. There were also under him Overseers of Stables, or places where Cattel were kept; of Flocks and Herds preserved for Breed: as to which *Pancirolos* takes notice, how *Arcadius* the Emperour celebrates two of *Mares*; the one sort called *Hermogeniæ*, and the other *Palmatiæ*, of which in our following History. There were also the *Procuratores Saltuum*, or of Parks or Pastures, into which these Cattel were sent to feed; these are the Officers mentioned by the *Notitia*, as under the Command of the *Comes*, to which *Pancirolos* and *Gothofred* add others out of the Laws: as the *Comes Sacri Patrimonii*, said by the *Greeks* to have been

Passim Historiâ hæc nostrâ.

first

Sect. 2. first brought up by *Anastasius*, who had a peculiar Charge of the Lands of the Prince, and medled with nothing else. A. D.

78. There was also a *Comes Stabuli*, who had the Charge of the Emperour's Horses, and of conveying Horses out of *Africk*, and the other Provinces for the Service of the Army; which Custom was at length left off; and Money being more wanting, began, in lieu of Horses to be exacted of those *Africans* at first three and twenty *Aurei*; afterwards twenty only, and after that eighteen, and then fifteen for every Horse; other two *Aurei* were paid to the *Comes Stabuli*, as his Fee, which Custom was abrogated by a Law. There was also under Command of this *Comes Rei Privata*, the *Comes Domorum per Cappadociam*, or the *Comes* that had the Charge of the Emperour's Houses in *Cappadocia*; and besides the *Rationales*, others called *Magistri Rei Privata*, and the *Præpositi Gynæcio*. Besides these Officers subordinate and commanded by him, he had, as other great Magistrates, an *Officium*, or Attendance of his own Servants, and more directly under him, who had the various Names of *Apparitores* and *Palatini*, because they wrote in the Palace, besides of *Cæsariani*, *Privatiani* or *Privati*, and *Catholiciani*, to whose Ministry or Under-Ser-vice the *Demesne* or *Patrimony* of the Prince, and Estates falling to the *Fiscus* did belong. For of the Revenues that arose from his Lands, and the Charges upon them, and the Sales made of them they took an Account, as also of forfeited Estates, and other Matters relating the same way. Therefore in Case any Cloths, Gold, Silver or Slaves belonged to the Emperour after this manner, these *Palatini* could not buy them, nor chaffer among themselves, lest by the Familiarity supposed to be amongst them, and the Friendship thereby contracted, any Partiality might arise, and by that, Detriment to the Prince. And this *Officium* had its *Primicerius* and its *Secundocerus*, who had the Charge of the Writings and Accounts. The whole *Officium* was divided into four several *Serinia*; each of which had its *Primicerius* or *Primicerius*, to whom *Theodosius* the Younger, gave the same Privileges, as those belonging to the *Comes Largitionum* enjoy'd; that they should have the Dignity and Honour of *Exconsulares*. Concerning them, as also the Ensigns of the Office of this *Comes*, which, as of the other *Comes Largitionum*, were, besides the Faces of Princes, Baskets of Coin, and other things suitable to his Office; the Reader may consult, if he please *Pancirolus*, and from *Gothofred* may have an account of such Petitions, as from the Laws of *Theodosius* his Code, appear to have executed this Place, as other Catalogues of the great Officers of the Empire.

79. We have at length done with the *Illustrious* Officers of the Court, as well as the Country; if we but dispatch two remaining, which were, the *Comes Domesticorum Equitum*, and *Comes Domesticorum Pedum*. Besides the *Vexillations* of Horse, the *Legions* and *Auxilia* of *Palatine* Foot, anciently called *Prætorian*, there were yet also certain Horse and Foot which had as well as they, the Style and Title of *Prætorian*; but more properly and peculiarly were called *Domestick Protectors*, first brought up by *Gordian* the Younger, and by the later Greek Emperours called *Spætararii*. They received more pay than others, but never went to the Wars, the Design of them being only to protect the Prince his Person, and be near about him. They were elected out of the seven *Scholæ* of the *Armenians*; one of this Number was *Ammianus Marcellinus*, the Historian, being *Protector* to the Emperour *Constantinus*; and some write, that *Dioclesian* was *Comes Domesticorum*, at the time of his Election. Amongst these *Domesticks*, the first ten, after the *Primicerius*, were more eminent in Dignity, and received greater Pay than the rest, being of the Title of *Clarissimi*. After the *Comes*, the next was called *Tribunus*, and was of the Degree of *Speçtabilis*, whom followed the *Primicerius*, and then the *Secundocerus*; who dying within the year, his Heirs, not only received the Profits of that year, but also, if before his Death he had succeeded as *Primicerius* of that year, they were permitted also to receive that Revenue. Moreover, such as dyed of these *Protectors*, were succeeded by their Sons; who, though not of Age to bear Arms, were admitted to the Pay of four ordinary men. Those fifty that most deserved for their Strength and Piety, next the ten, carried the *Labarum*, or Banner of our Saviour, each in his Turn, and in the Title or Dignity of *Clarissimus* were equal to them, being also styled *Præpositi Laborum*. They were daily in waiting, and every day permitted to salute the Emperour, or as the Phrase was, to *Adore the Purple*; which being their constant Practice, to *Adore the Purple* came to signify as much as to be admitted into their Number; and besides, they were allowed to kiss the Check of the *Vicars* of the *Præfetti Prætorio*, which to all was not indulged. The Advocates of the *Fiscus* might every year present two to succeed such of these *Domestick* Horse, or Footmen as died, on certain Conditions: for this *Comes* had Fees from them

His Officers.

Domestick
Protectors, and
their Comitæ.

337.

De Comitibus
Stabuli, et Sacri
Stabuli, vide
etiam Notitia-
am.
Dignitatum
Cod. Theod.
ubi etiam de
Gradibus agi-
tur.Fili. L. ult. de
Palatinis et c.
Cod. Theod. lib. 6.
tit. 32.De Offi. Praef.
fectus Domest.
sic dicti quia
stant ante nos
Domestici, na-
lis Protectoris
rebus delectati-
onem Domestici
de prima loco
stant, et Pro-
tectoribus præ-
positis famili-
aribus enim
præ ipsi mili-
tabant. vide
Comit. Gotion-
pedi in l. uni-
de Praefectis
Laborum, Cod.
Th. lib. 6. tit.
25. Sed sufficit.
cum Com. l. 9.
d. Domestici et
Protectoribus
lib. 6. tit. 24.
vide Antior.
Vide Constanti-
ne lib. 2. c. 8.
Hic Jo. an. disti-
guunt pro Prae-
positi Laborum.

5 A. D. 2. them in larger measure, and from others that were admitted into these Places. A. D.

These *Comites Domesticorum* sometimes supplied the places of the *Magistri Militum*, and were sent against the *Barbarians*. We had almost set them at the Degree of *337* *Speſtabilis*, becauſe in the *Notitia* of the Dignities of the *Code of Theodoſius*, they are ſo placed: but in the *Notitia* of the Empire they have the Title of *Illuſtris*; and that of the *Code*, though at firſt it expreſſeth that this *Comes* is ſtyled *Clariffimus*, yet adds, that in other Laws he is joyned with *Illuſtrious* perſons, as the *Prefects* and *Magiſtri Militum*, and is ſet before the *Prepoſitus Cubiculi*, the *Magiſter Officiorum*, the *Quæſtor*, *Comes Sacrarum Largitionum*, and *Rei Privata*. But in the *Notitia* of the Empire, he is placed after all theſe; altho'gh, as the other tells us, he was with them privileged from finding Souldiers to the Wars. And ſo now we have done (to be ſure) with the *Illuſtrious* Perſons, of which *Panciroſus* gives you this Catalogue, as to the *Eastern Empire*, viz. three *Prefects*, two *Prætorio*, and one of the City; ſix *Magiſtri*, viz. five *Magiſtri Militum*, and one *Magiſter Officiorum*; four *Comites*; viz. *Largitionum*, *Rei Privata*, *Domesticorum Equitum*, & *Peditum*; one *Prepoſitus Cubiculi*, and one *Quæſtor*; in all fifteen Perſons.

Fifteen Illuſtrious Perſons in the Eaſt.

Perſons of the Rank of *Speſtabilis*; as,

The *Caſtrenſis*.

Caſtrenſiani.

Pædagogia.

80. Of thoſe of the Rank of *Speſtabilis*, which follows that of *Illuſtris*, the *Primicerius Sacri Cubiculi* is firſt named in the *Notitia* of the Empire; concerning whom, and the *Decani* under him, who Dressed the Emperour, and ſerved much in the ſame manner as our preſent *Grooms* of the *Bed-Chamber*, we have already ſpoken. The next in order to him was the *Caſtrenſis*, as the ſaid *Notitia* calls him, or the *Comes & Caſtrenſis*, or *Comes & Caſtrenſis Sacri Palatii*, as the *Notitia* in the *Code* finds him Cited in the Laws. This Perſon had the overſight of ſuch as Waited on the Prince out of his Chamber in the Palace; ſuch as belonged to his Pantry, Cellar, or his Table. In the dayes of *Alexander Severus* the Emperour, and before, one of the *Liberti* had the Management of the Prince his Table, by the Name and Title of *Tricliniarca*, to whom at length ſucceeded this *Comes Caſtrenſis*. Such as under him belonged to the Table, were called *Menſores*, *Menſæ Miniſtri*, *Minifteriani*, and, as he, *Caſtrenſiani*; either becauſe they were wont to live in the Camp with the Emperour, or, as the Souldiers had a ſort of Service in the Camp, ſo thoſe a kind of Attendance, like to that of Camp, in the Court; for thoſe that Attended in the Palace were alſo termed a *Militia*; and more Perſons were ſaid *Militare*, than thoſe that ſerved in the Camp; the word being in a ſenſe transferred both to Palatine and Religious Services. At firſt, they had Diet and other Neceſſaries found them, but this at length waſt'nd into Money. The *Pædagogia*, or Pages, Boyes who wore Purple *Caligæ*, or Hoſen, the *Notitia* ſets under the Command of this *Comes*. It was his Duty alſo to look to the Buildings, Statues, and Ornaments about the Court; and by his Direction Walls of Cities were Repair'd, Caſtles built, as alſo Places for Adminiſtration of Juſtice: Bearing in his hand a Golden Rod, as the Badge of his Office. He, as Chief *Gentleman-Uſher*, walked before the Emperour. He might be preſent at Meals, and had the privilege to Adore the Purple. This is the Office, whom the Authors of the *Byzantine* Story commonly call *Europalata*; and thoſe of later, or the laſt dayes of the Empire, *Overſeer of the Table*; who uſed the ſame Cap and Veſtments with the *Legileſta Generalis*, the Succeſſor of the *Comes Largitionum*. He had a ſmall *Officium*, or Attendance for keeping Accounts of Diet, and of the Utenſils and Plate belonging to the Tables. Concerning which, ſee *Panciroſus*, as alſo his Conjectures concerning the Enſigns of his Office; which yet are not called *Inſignia* in the *Notitia* of the Empire, (as he obſerves) having not this Word ſet above them, as neither above thoſe of *Speſtabilis*, nor *Clariffimi*, who follow (as the other of the *Illuſtrious* Perſons have) altho'gh their Arms be alſo placed in the Book. The Reaſon (as he thinks) might be this, that when they went abroad, they had them not borne before them, as the *Illuſtrious* had, but only drawn in their Commiſſions, or painted in their Court, to put them in mind of their Duty; as the Book of Mandates (or Inſtructions) which was alwayes near the Bench.

The *Primicerius* *Notariorum*.

The greater *Laterculum*, of which he had the Overſight.

81. After him, now next in the *Notitia*, follows he who had the Charge of Re-giſtring all the Dignities and Offices in the Book, and this was the *Primicerius Notariorum*. Formerly a Catalogue of all Magiſtrates, Souldiers and Governours was written and kept by one of the Emperour's Free'd men, call'd *Procurator ab Ephemeride*, & à *Mandatis*, who moreover gave out Orders to them. Afterwards this Employment was given to *Notaries*, dignified with the Title of *Tribunes*, who regiſtered all that were prefer'd by the Prince to Dignities, in the greater *Laterculum*, which was a Volume that contained the Names of all that enjoyed any civil,

or

Sect. 2. or Military Dignity. The Arms of their Offices, and their Salaries, with the Commissions granted to Magistrates, and the Mandates, or Instructions of the Prince, as also the several *Scholes*, and such as served in the *Numeri*, with their Symbols. It had it's Name from the resemblance which in Shape and Figure it bore to a Brick, and indeed, together with the lesser *Laterculum*, comprehended well nigh all the Dignities mentioned in the *Notitia*; those of the *Largitiones* & *Rei Private* excepted; and certain Places of Magistracy registred in the several Offices of *Memoriae*, *Epistolarum* & *Libellorum*. This Book was managed by the *Primicerius Notariorum*, and his Scribes, or Clerks called *Tribuni Notarii*; because they equal'd *Tribunes* in Dignity, and from the Notes they used in their Writings. Some write they were first instituted by *Gordian* the Younger. The Fees they receiv'd from Officers for their Commissions were very considerable, forty or fifty *Aurci*, according to the Rank and Quality of the Place.

nder him
ibunt-Notar-
ts.

heir Em-
ployment.

82. For they made out Commissions to the Magistrates of Provinces, and the Cities, and registred their Names, with their Stipends and Allowances; of the *Magistri Militum*, together with the *Legions*, *Cohorts*, *Auxilia* and *Vexillationes*; as also their Commanders and Pay; those of the *Castra* and the Souldiers of the Limits excepted, who belonged to the lesser *Laterculum*, and the *Scrinium Memoriae*. And besides these, they kept the Names of such as serv'd in the ten *Schole*, of whom many continually going in and out, they were bound, every four Months, to make new Lists, or Muster-Rolls; yet the eleventh, or that of the *Agentes in Rebus* was Registred by those of the *Scrinium Memoriae*. The *Primicerius*, who by some is styled *Protonotarius*, continued two years in his Office, and was then succeeded by his Assistant, or the *Secundocrius*, as this by the *Tertiocrius*, and the *Tertiocrius* by him they called *Quartocrius*. The *Primicerius* read, as did the *Proconsul* in the Senate, such Edicts as the Emperours had made, which by a Law of *Theodosius* appears; and being out of his Office, was graced with the *Senatorian* Dignity, and the Honorary one of *Magister Officiorum*, being equal in Place to a *Proconsul*, if he never rose to the Honorary one of *Magister*. Of the Notaries under him there were three Ranks: some being called *Tribunes* and *Notaries*; others *Domesticks*, being Secretaries to the Emperour, whose Secrets they wrote; and below these was an inferior sort, though called *Tribune-Notaries*; yet it seems not equal to the other, who had the same Place and Respect, as *Palatine-Tribunes*. The first ten, after the *Primicerius*, were privileged from Quarter at *Constantinople*, and enjoyed the Dignity of *Vicars*, and the *Domesticks*, or Secretaries were the Fellows of *Consulares*. Lastly, it appears that none were received among the *Tribune-Notaries*, but such as had before received the Title of *Egregius*, and that they were made of the *Primiscriarii*. They went girt with a Girdle, as Souldiers were wont to do.

three Ranks
them.

he three Ma-
stres of the
Scrinia.

83. Now, at length follow the Masters of the three *Scrinia*, or Offices, for by *Scrinia* are meant Offices, Cabinets, or Rooms, wherein short Records, Edicts, Letters Papers, and other Matters relating to Records were kept. These in particular were, the *Scrinium Memoriae*, *Epistolarum*, & *Libellorum*: the chief Officers whereof were, in Contradistinction to him of the *Laterculum*, styled *Magistri*, not *Primicerii*; as those that were next them, at this time, were termed *Proximi*, and not *Secundocrius*, nor *Tertiocrius*. To these Offices *Augustus* gave Original, who by the Advice of *Mecenas*, out of the Rank or Dignity of *Equites*, by Reason of Multiplicity of Business, chose certain Persons to take Records of such Judgments as passed, such Letters as were written, and other Matters. Afterwards succeeded others by the Title of *Magistri Scriniarum*, in Dignity of the Rank of *Speclabilis*, and in place equal to *Vicars*: as to their Immunities, freed from all Burthens, both Civil and Personal, together with their *Proximi*, and as to Professions, ordinarily Lawyers. At first they continued three years, then two, afterward but one, in their Office; and quitting them were made *Comites* of the *Consistory*. For in all Employment it was a Rule, to suffer none to continue long in place; both that Room might be made for other deserving Persons; and such as were employ'd might not by long Continuance in any Office, be more instructed, and tempted to do amiss. Next to them were the *Meioproximi*, or *Futuroproximi*, who succeeded the *Proximi*, and were of the Style and Dignity of *Clarissimi*, with all the rest that followed, as far as the *Exceptores*. They supplied the Place of the *Proximus*, and were in the Room of the *Tertiocrius*; of whom he that next followed bore the Name of *Adjutant*. The Number of these *Scriniarii* was settled, and Constant: for in the *Scrinium Memoriae* were sixty odd Persons, and in the rest thirty four a piece. Of these some were *Exceptores*, so called from taking Notes, and recording such things

A. D.

337.

L. 33. de Petit-
onibus, & Cod.
Th. lib. 11.
Tit. 10.

Scrinia dixi-
mus vocari Ple-
nos, vel Annas-
ria, in quibus
Commentarii
breves, Edicta,
Epistola, Li-
belli, aliave li-
teraria monu-
menta clauden-
bantur. Panci-
rolus.

Sed de his Scri-
niis & Scrini-
ariis, item
Proximis, vide
plura in Para-
tit. lib. 5. Cod.
Theod. Tit. 26.
de Proximis,
Comitibus, &c.

Sect. 2. as passed before the Prince, the *Præfetti Prætorio*, or *Quæstor*. Under these was another sort, which wrote, and were Candidates for the next Place in Ordinary which fell, into which when they came, they paid two hundred and fifty *Solidi* for their Admission, to the *Proximus*, and twenty, or fifteen more to the *Melloproximus*; which afterward by a Constitution of *Anastasius* was transferred upon their Heirs, for this is observed concerning all the *Palatine Militia*, or those that served in the Court, that generally such as came in, at their Entrance paid certain Fees to the Seniors, or Principal of the Office. The first fifteen, in esteem greater than the rest, received also great Allowance from the Emperour; and at first in Kind, but it was afterward turned into Money. The *Scriniarii*, if in the Provinces, were exempted from the Burthen of Quartering, and as a Mark of their Employment, they wore a Girdle. For the Caslock and Girdle at first seem to have been taken from the Souldier, and so to have passed into use, both with Civil Officers, and Ecclesiastical Persons; as in other Countries, though not in *England*, the Custom is still observed, both by Lawyers, and others. *Pancirolus* observes, that St. *Ambrose* calls these *Scriniarii*, *Officia Palatina*. In Civil and Criminal Matters they were judged, as all their Relations, by the *Magister Officiorum*, and paid lesser Fees than others. Although they of the *Scrinium Memoriae* be properly called *Memoriales*, yet sometimes the rest also go under that Name. The places of the Principal in those Offices were so good, that *Procopius* writes them to have been better than an hundred *Centenaries* of Gold yearly.

The *Scrinium Memoriae*.

84. But that we may touch a little upon the Particular Offices; and first, as they lye in the *Notitia*, upon the *Scrinium Memoriae*. Princes of old, were wont to have such about them, as took Notice of those who in War did gallantly demean themselves. These writing down their Names, and putting the Prince in mind of them, to Reward their good Service, had from the Effect of their Office, the Name of *Memoriales*. But these by Degrees grew out of Request, and others came in their Rooms, whose special Charge it was to look to the lesser *Laterculum*, wherein were Recorded the several *Præfectships*, *Tribuneships*, and Command of the Forts lying upon the Borders. We say, it was their special and principal Care; for besides the lesser *Laterculum*, there were other Records also kept in this Office, wherein the Memory of many other Matters was preserved. Those that dealt in the *Laterculum*, under the Inspection of the *Quæstor* of the Palace, are called *Laterculenses*; the rest *Memoriales*. The *Notitia* tells us, that the *Magister Memoriae* (besides the Charge of the *Laterculum*) did dictate Annotations, grant Commissions for Postage, and answer Petitions. These Annotations were, as *Pancirolus* interprets the Word, short Notes of such things as were ordered or confirmed in the Prince his Name; who when he answered any thing by word of Mouth, the *Magister* dictated the Substance of what he said, to the *Proximus*, who took short Notes of it; or else the *Memoriales*, who from this taking or receiving had the Name of *Exceptores*, being in Quality something above the rest. In this *Scrinium* or Office were also kept those Writings which the Prince subscribed, for Approbation and Admittance of the *Agentes in Rebus*, and *Palatine* Officers under Command of the *Comites Largitionum*, and *Rerum Privatarum*; and probable it is, that by those *Memoriales* were Recorded and kept the Names of the Places, Towns, or Stages of the Postage, or *Cursus Publicus*. That Catalogue, which goes under the Name of *Antonine* his Itinerary, wherein are reckoned up the Mansions, Towns, or Villages in which the Horses were kept, being of this Nature, and probably kept in this Office; out of which the Licenses to use it Issued. And as likely it is, that the Roll and Description of the Engines of War, and the Pistaces and Vessels, which serv'd on the several Limits was here also preserv'd to perpetual Memory: upon which Accounts the Officers were not unfitly termed *Memoriales*. Of the sixty four Persons, which served in this Office, twelve were Assistants of the *Quæstor* of the Palace, and seven were called *Antiquaries*; four *Greek*, and three *Latin*; who looked to the Records, and copied out fair such as Age had begun to deface. The rest were *Exceptores*, or more ordinary Clerks.

Annotations omnes dictat.

The *Scrinium Epistolarum*.

85. The Second *Scrinium* or Office, was that of the *Magister Epistolarum*. In the time of *Augustus* there seems to have been no such Officer; for he wrote or dictated his own Letters, which afterward he left to *Agrippa*, and *Mecenas*, to be mended, or altered, as they should find expedient. But not long after was brought up this sort of Secretary, called *Magister Epistolarum*, who receiving from the Prince his Mouth the Substance of what was to be written, dictated the Letters unto Clerks. For *Nero* had this sort of Office; and *Suetonius*, who wrote the Lives of the *Cæsars*, was *Magister Epistolarum* to the Emperour *Adrian*. The *Notitia* tells us, that

Sect. 2. that this *Magister* dealt in the Embassies of Cities, Consultations, and Petitions. At the Audience and Conference with Ambassadors of Kings or Cities he was present, that he might fit the Answers he wrote according to the occasion. But these Messages were first Debated in the Auditory of the *Præfectus Prætorio*, without any Determination; and being Reported by those of this Office in the Consistory, they then wrote Answers according to the Emperour's Resolution. To such Prefidents, or Governours of Provinces also, as Consulted the Prince concerning any doubtful Matter of Fact, they wrote Answers as he directed. In Appeals from *Illustrious* Persons, or *Speſtabiles*, they wrote the *Acta*, or what passed; as also in Appeals made from *Duces*; and from the Records they wrote, got the Name of *Præſicarii*. This *Magister* also Answered to the Petitions of Cities, as the *Magister Libellorum* to those of Private Persons. The *Tribunſhips* of *Legions*, which were Diſpatched by way of Epistle, went through his hands: The Commissions of Persons *Illustrious*, and of the Dignity of *Speſtabilis* also. In conclusion, all Letters of the Prince written of course (as for Secret Matters, it might be otherwise) he Diſpatched, and thence he and the Under-Officers reaped no small Gain and Advantage. After him, next in order were the *Proximus*, and the *Melloproximus*, as in the *Scrinium Memoriae* was observ'd. Thirty four served in the Office, of whom Seven waited on the *Quæſtor*, with the Title of *Aſſiſtants*; and thence paſſing to the Places of *Laterculenſes* in the *Scrinium Memoriae*, had liberty to ſell their former of *Aſſiſtants*. Beſides this *Magister*, the *Notitia* mentions another of *Greek Epistles*, whose Work it was to Dictate ſuch in *Greek* as in that Language were to be ſent abroad, or being written in *Latine*, to Tranſlate them into that Tongue.

The *Scrinium Libellorum*.

86. Next follows the *Magister Libellorum*, or Master of Requests; for *Libellus* here ſignifies a Petition. *Augustus* himſelf Diſpatched and Signed Petitions; but his Succeſſors, to eaſe themſelves of the burthen, brought up this Officer; yet ſo, as that a long time they ſubſcribed them themſelves; till growing weary of it, this their Secretary had ſeveral *Scriniarii*, or Clerks, who took from the Prince his Mouth (or from the *Magister*) and wrote his Answers. But the *Notitia* tells us, this *Magister* *Cognitiones & Preces tractat*. *Cognitio* ſignifies the Debating and Examining of the Cauſe when Council was heard. For when an Appeal lay to the Prince, from one he had Delegated to Hear a Cauſe; the *Præfectus Prætorio in Comitatu* (he in Waiting) or the *Quæſtor* of the Palace heard the Matter, which was managed by this *Magister*, and his *Libellenses*, or thoſe of the Office, which in the time of the *Notitia* were Thirty four in Number, who took the Proceſs in Writing, as the *Epistolares* did, when Appeals came from Judges of the Degree of *Speſtabilis*. They alſo were Registers of the Court, at the Tryal of any *Illustrious* Perſon before the Emperour: as alſo, when any Matter in the City was referred by him unto Delegates. Whereupon *Juſtinian* (as *Pancirolus* obſerves) calls this *Magister* by the Title of *Magister Cognitionum*, and *Antigrapharius*, (the ſame with *Reſerendarius* in the *Notitia*) and this Office *Scrinium Libellorum & Cognitionum*. Beſides this, they of this Office gave out the Approbatory Letters or Commissions, by which (being ſubſcribed by the *Magister*) the Prince Approved of the *Magistri Militum*, the *Comites* and *Duces* of the *Limits*, and ſeveral of the *Palatine*, or Court-Officers; ſo that their Places muſt needs have been very Profitable. Of the Thirty four, Seven alſo Attended as *Aſſiſtants* upon the *Quæſtor*, of his own Choice; and afterward came to be *Proximi*, and *Melloproximi*. The *Maſter* was moſt commonly a Lawyer, and often roſe to the Dignity of *Præfectus Prætorio*. Such were *Papinian*, *Aurelius*, *Arcadius*, *Charifus*, *Paulus*, *Ulpian*; and in *Juſtinian's* time, *Constantine* the Compiler of the *Pandeſts*, who had been Advocate in the *Præfect's* Court, who alſo Exercised the Office of *Magister Largitionum*. Theſe *Libellenses* were girt with a Girdle, as the Badge of their Office, and were judged as the other *Scriniarii*, by the *Magister Officiorum*. As for the *Magister*, neither he, nor either of the other two preceding *Maſters*, had an *Officium* of their own, or *Attendants* allowed them; but, out of the Office it ſelf, took ſuch *Aſſiſtants* as they pleaſed.

The *Scrinium of the Comes Dispositionum*.

87. Now, laſt of all, beſides theſe three of the *Maſters*, there was a fourth *Scrinium*, or Office under a *Comes Dispositionum*, as he is called; of which, though the *Notitia* makes no mention, yet *Pancirolus* thinks fit to add it, as being (he tells us) frequently mention'd in other Books, though at the time when the *Notitia* was written, the *Magister Epistolæ* might do the Work; and from the Prince his Diſpoſing many things by him, might be called *Magister Dispositionum*. But

Sect. 2. this *Scrinium*, at other times, had neither a *Magister*, nor *Proximi*, but instead of them, a *Comes*; and such as Managed it under him were termed *Referendarii*, as *Pancirolus* thought. They represented the Desires of Suppliants, and Consultations of Judges (as he believed) to the Emperour, which Representation was called *Relatio*, and returned Answers to the Consultors, which were termed *Mandata*, as well as *Responsa*, and also *Dispositiones*. Being few at the first, their number increased to Eighteen, by permission of *Justinian*, who yet reduced them at length to Eight. Their *Comes* had his *Assistants*, and they were all obliged, as all other *Scriniarii*, to serve twenty years, and at the end of their Service, they were Adorned with the Honour of a *Consularis*; and the *Comes* himself Preferred to be one of the Prince his *Consistory*, or *Council*. This is the Sum of what *Pancirolus* hath written concerning the *Scrinium Dispositionum*, and those that Served in it, whom yet *Gothofred* accuseth of Errour herein, that he Confounds them with the *Referendarii*. And he Affirms, that by *Dispositiones* here ~~are~~ not meant Constitutions, Sanctions, Pragmaticks, Edicts, though these elsewhere come under the general Name of *Dispositiones*, but other Acts of the Prince respecting the Commonwealth, besides the Sanctions of Laws, Adnotations, Answers to Messages, Embassies, Consultations, Petitions, or Cognitions, all which were Dispatched by the other three *Scrinia*, or Offices, viz. *Memorie*, *Epistolarum*, & *Libellorum*. What then? Why in these *Dispositiones* were most commonly the Provisions of the *Annona*, Dispositions of the Emperours Journeys and Expeditions, concerning the Creation of Magistrates and Publick Officers, and Matters which the Prince had proposed to himself to be done. That *Dispositiones* are taken in this sense, he proves out of *Lampridius*, *Capitolinus* and others.

Rejected by
Gothofred.

A. D. 337.
Ad L. 1. lib. 6.
Cod. Th. Tit. 26.
de Proximis, Co-
mitibus, Di-
pos. &c.

88. He concludes, that (as a Law expressly speaks) in this *Scrinium* was kept the *Norma* and *Series* of the Emperour's Dispositions; or what was Disposed in the State by him, according to the Emergency of Affairs; so as what in a manner he daily Acted, Designed and Disposed, were therein contained, their number arising to so great a multitude, that it was requisite there should be a peculiar Office for them; as also a peculiar *Comes* or *Magister*. But he proves that the *Scriniarii* of this Office or *Scrinium*, were of a lower Degree than those of the other three; because in the other, Learning was required to Form the Constitutions, Answers and Letters of the Prince; but in these, only Integrity and Industry; and therefore, as it is evident by a Law of *Gratian*, that the Chief Officers of this *Scrinium* were also called *Magistri*, which some have denied; so as plain is that which he observes from the same Law, and others, that these *Comites*, or *Magistri Dispositionum*, though in Name they might agree with the Masters of the other *Scrinia*, yet in Degree were inferiour to them, being joyned, not with Them, but their *Proximi*, with whom they received, when they went out of their Offices, the Honorary Dignity of *Vicars*. And thus we have run through the several Offices of the State, and thereby done so serviceable a part to the Reader, as to give him a Prospect of the Polity of the Empire; by which means he may better understand not only the Government, but the Histories, Laws and Customs of these Ages. But he must know, that what has been said of these several Magistrates, hath relation chiefly to the *Eastern* Empire, which in the time of the *Notitia*, and especially afterward, was most considerable; That of the *West* shortly after failing, which was a good reason why *Pancirolus* chiefly insisted upon that of the *East*. I must confess, some may judge this too tedious a course we take; but yet, methinks, there is more still to be added; one Subject yet remaining, without which, neither this Design, nor the Reader's knowledge of these Matters, can seem to look toward Perfection. And that is, a short Account of the Municipal Magistrates, or the Government of the Cities and Towns Corporate; which we shall also Dispatch with what Brevity and Clearness we can.

Clarissimos vi-
ros, Proximos
Scriniariorum &
Magistros Dis-
positionum, Vi-
cariariorum Ordi-
ni copulamus,
&c.

89. The *Roman* Prince his Task and Employment being to look to the Government of the Provinces, by placing therein such Magistrates as he thought convenient, and to take care of the state thereof, left the Matters of the particular Cities to the Management of their own Officers; contenting himself with the Jurisdiction and Empire over the People, and the Tributes he received from them. Therefore had each Corporation a Court, or *Senate* of its own for their Government, and Provision of all Necessary Things; Creation of Magistrates, due Management of Publick Lands or Moneys, looking to their Publick Houses,

Pancirolus in
Epist. Dedicato-
ria.

Municipal
Magistrates.

Sec. 2. *ses, Baths, and Forums*; Repairing of Ways, equal payment of Tribute, and other A. D.

All Cities had
their Senates.

Matters relating to the Common good. All Cities within the *Roman Pale* had their peculiar *Senates*, the two Capital Cities *Rome* and *Constantinople* excepted, which the Presence of the Prince eased of that Trouble, they having *Præfects* (as we have seen) of their own, who Discharged the Offices of other Inferiour Magistrates, or *Curators*; and the great *Senates* of the Empire there sitting, there was no need of the other lesser and lower Courts. These two were therefore Paramount, and of condition surpassing the nature of these Inferiour Corporations. All other Cities looked upon themselves as Graced and Privileged by having these Courts and Governments; and some there were, which, for their Revolting to *Anntbal*, after his coming into *Italy*, were deprived of them, and Disfranchized, as *Capua*, *Puteoli*, *Attala*, *Fundi*, *Formia* and others, which thereupon ceased to have their *Municipal Officers*, but received Governours from the People of *Rome*, or the *Prætor*, for many Ages; till by the Emperour they were Restored to their Courts, Judges, and Magistrates. But not only Cities (*Civitates & Urbes*) had their *Senates*, or Courts, but also Towns (*Oppida*) Free Burroughs, (*Municipia*) nay Villages (*Vici*) certain Mansions (*Mansiones*) and Forts or Castles (*Castella*) have had theirs too.

*Quemadmodum
urbis Roma suos
habuit Tribunos
Plebis, suos Re-
gionum Curato-
res, suos Consu-
les, suum Sena-
tum, ita quoque
& Municipia
pro Tribunis
Plebis habuere
Defensores, ha-
buere & suos
Curatores: Item
pro Consulibus
Magistratus, id
est Duumvirs,
pro Senatu Or-
dines, sive Cu-
ratos. Vide Go-
thofred. in L. 5.
de Exhibend.
& transmittend.
reis. Cod.
Th. lib. 9. tit. 2.
Paratitlon
Tit. 1. lib. 12.
Cod. Theod. de
Decurionibus.*

which in ma-
ny things re-
sembled that
of *Rome*.

90. The Senators of these Courts are sometimes called *Curiales*, *Municipes*, and otherwise, but especially *Decuriones*; in respect of their Care of the Publick, they were termed *Fathers*, the *Nerves* and Strength of the Cities, styled Eminent, and joyned in Degree and Repute with the *Honorati*; the other Inhabitants being, in Distinction from them called *Plebeians*. For they in many things resembled the *Roman Senate*, by the Example of which, the Sons of these *Decuriones* follow'd the Condition of their Fathers, and their Names were written in the Table called *Album*, as those of the Senators were. First were written those that Excelled in Dignity, and then others, according to their Seniority in the Place; and such as had Sons were preferred before such as wanted. Further, as at *Rome* he was made *Prince*, or Chief of the *Senate*, who was more Eminent than the rest, in respect of his more Honourable Atchievements; so was he that had passed through all Offices in the City, made Chief of the Court. And as at *Rome* once there were two Orders or Distinctions of *Senators*, viz. of *Illustrious* Persons, and those styled *Clarissimi*; so amongst these *Decuriones*, such as had passed through all Employments, were of a Principal Rank, and were termed *Principales*. They were more or fewer according to the Quantity of the Place they Inhabited; sometimes Seven, Ten, or Twenty, and called *Icosoproti* in *Greek*, as the Honour it self *Icosoprotia*. At *Alexandria* indeed there were but five *Summates*, and scarcely fewer any where else. Every one of them, according to his Place, was first asked his Opinion, as was observed in the *Roman Senate*.

How the *Decuriones* came
to be such.

91. But for a more distinct Knowledge, how they came to the Dignity of *Decuriones*, we must know, that they were either such from their Fathers, or Promoted. The Sons of such Persons, as we said, followed the Condition of their Fathers, whether Adopted, or born of Lawful Matrimony; for as for the Spurious Brood, it neither enjoyed any such Privilege in this, nor any other Matters. And only by the Father's side had they a Title to this Degree, not by the Mother's, except in the Court of *Antioch*; in which City this Right, by the Indulgence of Princes, was allowed to such as were born of a Daughter of a *Decurio*, though their own Fathers never arose so high. Here *Pancirolus* tells us from *Ulpian*, that they could not come to any Government till the five and twentieth year of their Age; which, though but begun, was to be taken and esteemed Compleat; though as to other Offices, the twenty fifth ought to be fully ended; according to which opinion of *Ulpian*, *Michael Hospitalius*, Chancellor of *France*, in the Year MDLXIII at *Reuen*, proved *Charles* the Ninth, the *French King*, at the entrance of his Fourteenth Year, to be of Age or Puberty. But it appears from a Law cited by *Gothofred*, that the Sons of these *Decuriones*, though but of Eighteen years of Age, and as yet not Emancipated or Loosed from the Paternal Power, were obliged to undergo the Offices or Employments of the Cities: and such as were thus born, as *Pancirolus* himself Notes, were, though under pretence of Religion they had chosen the *Monastical Life*, drawn back again, and forced to Publick Service. So much for them whose Descent cast both this Honour and Burthen upon them. Others were, upon Vacancy of Places, chosen by the Court; and the *Plebeians* or Citizens were, though unwilling, compell'd to Accept of the Charge, if they had not a reasonable Ex-

Sect. 2. Excuse, as old Souldiers, and some others; and if they were not yet arrived at A. D. 337.
 eighteen years, if they were in Orders; but *Jews* were not excepted; provided they
 bore not any Office belonging to their Synagogues. And if once in this Relation,
 by the Laws they were severely prohibited to desert their Station, which many,
 tired out with the Trouble they met with, were wont to do, or by Employments
 inconsistent with their City-Duties to divert themselves from the. By Degrees, they
 were to run through all the Offices of the Court, and not till then arrive at any
 Service, or Dignity, which if they undertook, they were to be forced back again.
 Yet, if they had taken Orders, the Constitutions, as the Affections and Inclinati-
 ons of Princes were various, in that Particular. Generally they obliged them, ei-
 ther to return back, or find Substitutes, or leave their Patrimonies to the Courts.
 Several Exceptions there were in Favour of some, especially such as served in the
 Palace. Also they could not be excused though by Connivance of the Court it
 self, neither by the Favour of the Prince, but for a certain time, nor by the Sen-
 tence of a Judge, neither by a Substitute (except Clerks promoted to Dignity)
 without they had passed all the Offices, or could be excused for their Age.

92. On the first of *March* the Promotion of these *Senators* or *Curiales* was wont
 to be made. The Court being summon'd by the *Duumviri*, by a publick Messen-
 ger, according to the Custom of the City. Two Parts of the Court, at least, were
 to be present, and the *President* of the Province at all Elections. The *Duumviri*, or
Censors named whom they thought fit, and thereupon the Suffrages being gathered,
 the Election was perfected by the Voices of the Major part, and the Approbation
 of the *President*, who signified it to the Person by a Publick Messenger. If he
 pretended an Excuse, he appealed to the *President*, and if upon Tryal his Excuse
 was found good, he that nominated him was condemned as to Costs. To this
 grinning Honour such were prefer'd, as had most Voices, or were Fathers of more
 Children, and for a Conclusion their Names were entred into the *Album*, or List of
 the Court. From one newly admitted, certain Gifts, or Fees were due to the old
Curiales, and divided amongst them, which they called *Sportule*. Now having
 entred upon their Offices, their usual Tasks, and Employments were, both various
 and troublesome, which often provoked them (as we said) by several Courses to
 evade them. To them in general the whole Care of the Publick was committed.
 They were employed in Prosecutions. They managed the Revenue of the place,
 of which the third part was laid out for repairing the Walls, and publick Baths,
 the rest for maintaining of Professors, and other publick Uses. For they also main-
 tained Physitians to take Care of their Sick, with a certain Salary. Neither did
 the *President* of the Province herein meddle; but the *Curiales* themselves made
 choice of such, to whom for their Honesty and Skill, they thought fit to commit
 themselves and their Relations. And these are termed *Archiatri*, or principal Phy-
 sitians. *Grammarians* also, *Rhetoricians* and *Sophists*, or Philosophers they had under
 Pay for instructing of their Youth. The lesser sort of Towns had usually but five
 Physitians, and three Professors. The middle sort seven of the first, and four only
 of the latter sort; but the greatest ten Physitians, and five *Grammarians*, or *Rhe-
 toricians*. Except to such as these, no Salary could be allowed by the Publick; and
 in Case any such were decreed, the Decree, as partial was accounted Null and
 Void. As for Professors of Law, no such were permitted to teach, except at *Rome*
 in the *Capitol*, at *Constantinople*, or *Berytus*. But to speak further to the Duties of
 the *Decuriones*. Sometimes they had the Care of the publick Postage, or *Cursus
 Publicus*, and several other Services from the State were imposed on them. For
 Example, they were made *Susceptores* in other Provinces, *Procurators* of Mines and
 other Charges, and in the Corporation exercised that Power we lately mentioned,
 the whole Interest thereof being their Concern. The ten Principal of them gather-
 ed the Tributes, and if any was wanting, made it up themselves. In Respect to
 which Duties they were not permitted to live in the Country. Though they ma-
 naged the publick Revenue, and by *Curators* let out the Lands; yet without a De-
 cree they could not alienate them, nor send a Message to the *Prince* without Con-
 sent of the *President*. In case any of them died without Issue, he was bound to
 leave the fourth part of his Estate to the Court; which Custom made most of them
 so desperate as to be Spend-thrifts, and chuse rather to waste their Estates, than so
 to leave them: and some abstained from Marriage, that they might not leave their
 Sons obnoxious to the Court, or Body; very few concerning themselves for it
 more than Necessity constrained. It was fit therefore, they should have many Pri-
 vileges, to invite them to undertake so troublesome a Task.

Sect. 2. 93. The chief of all their Privileges was this, that neither they, nor their Sons A. D. 337.
 by the Governours of the Provinces could be put to the Rack, or have any such
 Their Privile- Extremity used to them as was wont to be inflicted on ordinary Persons suspected;
 ges. except they were found to have defrauded the Corporation of it's Money, or Revenue; in which case they might be beaten on the Back with leaden Bullets. They were also lyable to a severe Examination in the Case of Counterfeiting Writings. But further, if they fell into Poverty, they were to be maintain'd by the Publick, especially if that had hapned to them by their Liberality to the Corporation. If any one entred into any Office of Magistracy, took the *Toga Virilis*, or married, it was the Custom, that they should be invited by them, and receive one, or two *Denarii* of the Party. Some of them, that had passed through all Offices, and arrived at the highest Place of the Court, were honoured with the Dignity of *Comites* of the first Rank. A Bastard-Son by his Father offered to the Court, became Legitimate, and a Bastard-Woman, if married to a *Decurio*. As Senators at Rome by the *Laticlavium*, so little doubt it is, but they by a peculiar Habit (though not known what it was) as well as by other Ensigns of Magistracy were distinguished from the inferiour Sort. On Festival days, as upon News of some Victory, or the Prince his Birth-day, they wore Garlands. Without the special Command of the Empe-
 rour, they could neither be summoned upon any Law-matter to Rome, nor Constantinople, nor into any other Province. In some Countreys it was also the Custom to have certain Courts, or Colleges, which they termed *Synedria*, out of which Causes could not be determined.

The Manner
 of their Pro-
 ceeding in Bu-
 siness was after
 that of the Si-
 nate at Rome.

94. Now the manner of their Proceedings in Business, much resembled that of the Roman Senate. As the Senate was called together at Rome by order of the *Consuls*, or *Prætor*; so theirs by that of their *Duumviri*: That was summoned by a *Præco*, or publick Cryer, and so was theirs. In both they took Place according to their Quality. Two parts of three it was necessary should be present at the Court, and if any Matter of Difficulty occurred, one of the *Duumviri*, who propounded the Business, asked the Opinions of the *Curiales*, Man by Man, beginning with him that was of best Quality. Precedence was usually given to him that had most Children, except at *Syracuse*, where no man was asked by Name, but, as now in our Parliament, spake of his own Accord; though it was the Custom there also for those that in Age or otherwise excelled, to begin: but if all held their Peace, by Lot they were compelled to deliver their Opinions. Of old the *Decuriones* gave their Suffrages by word of Mouth, or written on small pieces of wood, as at Rome the Senators, and the *Summates* only spake; as in the City the *Illustrious Senators*; the rest shewed their Opinions by Discession, each going over to that Party he approv'd; and what pleased the Major part was received, and called *Decretum Ordinis*, or the Decree of the Order, or Body. This Course was observed, till by the *Tabellarian Law* this Discession was forbidden, and Votes ordered to be passed silently by Writing, of which *Pliny* (as *Pancirolos* observes) doth complain. As the Resolves of the Senate of Rome were wont to be Noted by those Letters, S. C. so the Decrees of the *Decuriones* by D. D. Such was the Work, Honour and Employment of the *Decuriones*, while they continued in that Place or Relation; and Difficultly, if they would, could they leave it. Indeed by Deportation or Relegation, as a Punishment, they were Degraded. On the other side, scarcely could they get off except they had passed through all the Offices. Sometimes yet they were Excused by certain Privileges, as of Merit, Age, Number of Children, Service at Court, and in the Camp, publick Administration or Dignity; if by Merit, not Favour they had obtained it; also by being publick Messengers or Ambassadors, and having served as an Official the space of five and twenty years. If they arose to the Sublime Honours of *Patrician*, or ordinary *Consul*, but not Honorary, or only by Patent of that Dignity. Moreover, the *Præfecti Prætorio*, *Magistri Militum*, the Advocates of the *Fiscus*, the *Principes* of the *Agentes in Rebus*, and the *Proximi* of the *Scrinia* were discharged of the Trouble.

Who might
 be discharged
 of the Trouble.

Magistrates in
 Cities,
 as,
Duumviri.

95. We have mentioned the passing of the *Decuriones* through several Offices; now what these were we must also tell the Reader. The highest Place of Magistracy was that of the *Duumviri*, or *Duumviratus*, so called, because exercised by two Persons, as the *Consulship* was at Rome; though sometimes, according to the Customs of the Cities, or Towns, there might be four, or five, who held the chief Magistracy, and be called also by other Names; as *Ædilis*, *Prætor*, and *Dictator*. The (a) *Duumviri* could only be made of the *Decuriones*, and the chiefest of them: and consequently, the City of *Alexandria*, being wont to be Subject to Kings, as
Magistratus
 pro Duumviro
 sumitur in toto
 Tit. Cod. Th. de
 Duumviris,
 c. ubi
 it

Sect. 2. it had no *Decuriones*, so none of the other sort, but from *Cæsar* received a Judge, *A. D.* who was called the *Juridicus* of *Alexandria*, and exercised all the Powers belonging to the *Duumviri*, with whom he is often compared; to him, and also to them Power of assigning Tutors being granted: but hereih his Authority exceeded theirs, that he had Cognisance of the greatest civil Causes, whereas the lesser sort were only triable before them. This seems to have been a Reason, because He was created by the Emperour, and they only by the Corporation; but *Severus* put an end to this Difference; by introducing *Decuriones* also into this City. The *Duumviri*, by way of Eminency, are in the Laws termed *Magistratus Municipales*, and simply *Magistratus*. The same Form was observed in creating them, as in chusing the *Decuriones*, only they were nominated two or three Months before they entred their Office; that in case they had just Causes to excuse themselves, others might be chosen in convenient time. If no fit Excuse could be alleaged, though unwilling, they were compelled to undertake the Charge, and to give Caution for their just Administration. In old time they had *Lictors*, or Beadles, that went before them, but bore no *Fasces*, but only a Rod or Staff, as Virgers now. But this Custom was afterwards changed, and at length every where the *Fasces* came to be used. They wore also the *Prætexta*, or Robe with a Purple Border.

96. But now in Reference to their Power; they might be Judges in Causes to a certain Sum; but could not exercise those Authorities, which belonged more to *Merum Imperium*, than *Jurisdiction*; as to restore one in *Integrum*, and other Matters: but they might take Caution of the Parties to traverse greater Matters before other Magistrates. They had Power also of making Records, or *Acta*, by which are meant the Entries of such things as were made before a Judge, either in pleading, or Matter of Proof, wont to be made in the Presence of three *Curiales*; but this *Justinian* would not have inserted into his Code; and they might cause Distress to be made for Payment of Costs: they could chastize Slaves, and send away Fugitives to be punished by the Governour of the Province. Some say they had no Authority to convict free Persons; but others alleage the Case of *St. Paul* and *Silas* to the contrary, who by the Magistrates of the *Philippians* were, both imprisoned, and beaten, and dismissed the Day following; as in the Acts of the Martyrs, many *Christians* are said to have been cast into Bonds by the *Municipal Magistrates*. They might assign Tutors, provided the Estate of the Pupil did not exceed five hundred *Solidi*; the Richer being reserved to the Jurisdiction of the Governours of Provinces. They took Caution for Pupils also at their own Peril; for if the Sureties failed, They were to make it good. In some Cities they Manumitted, so as to make the Parties *Roman Citizens*; whereas others were but *Liberti*, or free'd men of *Latium*; or *Latines*. They contracted for, and in the Name of the Corporation, and recovered Moneys left to it, at their own Peril. These Troubles might well excuse them from being *Tutors*, or *Curators* to Persons under Age; and while they were Magistrates, they could neither sue, nor be sued. In some Cities, as is alleaged, they might hold for five years together; but generally, as of other Officers, their Employment was but annual.

97. Next after the *Duumviri* was the *Defensor Civitatis*, or Defender of the City, by the *Greeks* called *Syndick*; which was a single Employment resembling much the Office of the old *Roman Tribunes*, as that of the *Duumviri* did the other of *Consuls*. For of the *Duumviri* none could be made a *Defensor*, but he was created of some fitting and able Man amongst the other Citizens, being sometimes also styled *Defensor Plebis*. For his Work was, as his Title imported, to defend the common sort, and so also the whole Corporation from Injuries and Oppressions. In his Election the *Bishop*, *Clerks* and *Curiales* of the Place were concern'd; upon whom, by a Constitution of *Theodosius* it was incumbent, to make choice of the Person, who was afterward to be confirmed by the *Præfectus Prætorio*; having taken his Oath to Act in all things, according to Law; and the City for his Commission, if he was of the better sort, paid four, if of the inferiour, three *Solidi*; for he himself was at no Expence, receiving no Reward, or Salary, except such was the particular Custom. His great Work was, to decide pecuniary Causes amongst his Countrymen, and to be Judge of the ordinary sort in their Suits and Quarrels; though in old time his Authority in such Cases reached, as high as fifty *Aurei*, wherein the Parties were bound to come before him, and not before the *President* of the Province, except by way of Appeal. Lighter criminal Causes he might hear, but his Animadversion upon the greatest Offender could only extend to Imprisonment, and then sending him, in the Name of the Accuser, to the *President*, to be punished. Testaments, Instruments of Contracts and Donations were registred with him, and

Pancirolus de Magistrat. Municipal. C. 8.

Nonnullis Agoræi, apud Africanos.

Sect. 2. the Acts of such Processes, as were under his Cognisance, being taken by an *Exceptor*, that was lent from amongst the *Officium* or Attendants of the *President*, and afterwards transmitted to a publick Office called *Archivum*, of which there was a *Præfext*, or Overseer, to take Care they were not spoiled by Dust, or any other way obliterated. To this *Defensor* the Care of keeping the Multitude in order was committed, as also of protecting it, and the Price of vendible things. He assisted such as collected Tributes, against those who neglected to pay them, and executed, as it were, the Place of the *President* of the Province in the Town. It was his Task to pursue and find out fugitive Slaves, belonging either to the Publick, or to private Persons. At first these *Defensores* continued in their Places for five years, but afterward the Term was limited to two, which expir'd, other Citizens succeeded for the same time.

98. One of the most incumbent and Pressing Duties upon the *Decuriones* was, to see the Tributes duely collected; for which Purpose they made Choice of some one Citizen to collect or receive them, who thence had the Name of *Susceptor*. He was chosen in the Court, much what after the same manner as the *Decuriones* themselves. One, or more named him at their Peril (for they were responsible for him, in Case he failed) and the Record thereof being taken by the Clerk of the Court, he certified therein, both the Name of the Receiver, and Undertaker for him to the *President* of the Province. The *Susceptor* of the Corporation (for there were, as we have formerly touched, other *Susceptores* of the Publick Revenue in the

Countreys) might be chosen, either out of the Body of the *Decuriones*, or from amongst the *Plebeians*, (so they were termed) or inferiour sort; but the Office was not reckoned amongst those they accounted Sordid. His main Work was, in the Presence of the *Defensor Civitatis*, to take an Account of every Mans Land, and what was owing, and then to demand and receive from every one the fiftieth part of Wheat, the fortieth of Barley, and the twentieth of Wine and Lard, which was sent to the publick Storehouses, and there kept by the *Præpositi*, or Overseers of them. He also gathered what Poll-money was due, or Money usually rais'd otherwise from Lands, and such yearly Sums as were imposed by the Prince after this manner. The Town-Clerk gave in an Account from his Office, what was due from each Person; and such as were behind, or negligent to pay, the Apparitors of the Court were sent to take it, and then they brought it to the *Susceptor*, who gave a Note to him that paid it, wherein the Sum, the Cause of Payment, the name of the Party, the *Consul*, Month and Day were expressed. This was termed *Securitas*, and *Apocha*, as the Payment of Tribute it self, *Collatio*; which though variously made, according to the several Nature and Customs of the several Provinces; yet all agreed in three certain Portions enjoyn'd by the Prince, at the first of *January*, first of *May*, and about the beginning of *September*; at which time the *Indictiones* began. The Grounds of such as deferred Payment were forfeited to the Emperor, and sold. The Money gathered was committed to the *Arcarius*, or Under-Treasurer, (such *Pancirolos* thinks to have been *Erastus*, whom St. Paul mentioneth from *Corinth*, though Lawyers translate him *Administrator*, or *Curator*) who was chosen after the same manner as the *Susceptor*. He kept it not long in his hands, but speedily transmitted it to the *Præfextus Thesaurorum*, or Treasurer of the Province, who sent it up to Court with all convenient Expedition. Such was the Employment of the *Susceptor*, or Receiver, who only medled with such things as we have named, or Money (not with Cloaths) paid by the *Provincials* for every twenty, or thirty Acres of Land; for these were received by others. He held his Office for a year, except the Custom of the Place, or the Scarcity of men prolonged his Term unto two; neither could he undertake it again, till he had given Account of his former Administration. Every *Susceptor* was bound to gather up, not only what was due within his own Year, but all Arrears; till at length, *Anastasius* eased the *Decuriones* of this Trouble, by ordaining in every City other Collectors of Tributes, called *Vindices*, who continued in Being till the Reign of *Justinian*.

99. As the Prince had these his Officers in the Cities or Places corporate, for Collection of his Revenue; so the Corporations also, having Lands usually, Money, or Houses of their own belonging to their Body, had a peculiar Officer called *Curator*, or *Procurator*, *Logista*, and *Aſtor Publicus*, who took the Charge of them, and let them out, as was thought convenient; the usual Term not exceeding five Years. Such Money or Goods as lay in private Hands, he recovered, and procur'd the publick Buildings to be repair'd, being obliged to make good, out of his own Estate, whatever Detriment the Corporation receiv'd. He set a Price of

A. D.

337.

Quod Debita
Publica suscipere.
Vide Gatho-
fred. Comm. in
L. 54. lib. 12.
Cod. Tit. 1.
de Decurioni-
bus.

Ad Rom. ult.
"Ερεος ο οἰκονο-
μῆμος τῆς πό-
λεως.

Sect. 2. of Victuals; saw that the Army had Provisions, and Compelled such as suffered their Houses to Decay, and to be an Eye-sore to the City, to Repair them. That Publick Places were not possessed by Private Persons, he took care; and in such Cafes so Represented the whole Corporation, that if any went about to Build there, and he gave warning to him, it was the same as if he had done it to the whole Body; for what, in such Matters, was forbidden him, was forbidden to the City it self; but in most places a peculiar Officer was chosen for this Affair, whom *Papinian* calls *Ædilis*. The *Curator* paid also the Publick Debts, and Let out the Publick Money, but not to Interest, which was the Task of the *Præfect* of the *Calendar*. He, and other *Curators* were obliged every year to clear the Accounts. Sometimes there were more than one of them. *Alexander* the Emperour, made at *Rome* (as *Lampridius* writes) fourteen *Curators* of the City, to Hear and Determine Matters with the *Præfect*.

The Curator
Annonæ.

100. But nothing being of greater Concernment in all Places, than that Provisions, or Victuals should not be wanting; in Old time an Officer was Created by the *Decuriones*, for the constant Supply thereof, by the Name of *Curator Annonæ*. He bought up, at the best hand, Corn, when need required, to be Distributed amongst the Poor at a Moderate Rate, by *Ædiles*, chosen by the *Duumviri* for this purpose. These *Curators* had an *Officium*, or Company of Officers and Serjeants Commanded by a *Centurion*, who had the charge of Conveying and Laying up Corn; and if Sacks were wanting, might take them from any of the Inhabitants, and use them for the present time. Of this nature was the Office of the *Præfectus Annonæ* at *Rome*; who, though at first he was no Magistrate, yet afterwards had Jurisdiction given him over such as Traded in Wheat, Barley, and the like; which Authority is presumed also to have been Exercised by these *Curators* of other Places. It was a Personal Employment, wherein they were not bound to be at any Expence themselves, but only their Personal Labour was requir'd. The Corn was not to be sold dearer nor cheaper than the Time requir'd; and if any City was in Want, the Emperour usually compelled other Places to supply it at a Reasonable Price. One, under twenty five years, was not to be compelled to this Office, except the Custom and Orders of the Places were otherwise. It's usually in Books, after the *Greeks*, called *Sitomia*; for which, for a long time, the *Decuriones* being wont to chuse this *Curator*, afterwards one of the Officers or Apparitors of the *President*, with the Consent of the Bishop and the *Primates* of the City, was appointed to Discharge it.

Episcopus, or
Inspector.

101. That there might be a sufficient provision of Corn, the *Curator* was to take care; but this was not enough; the People or Inhabitants being wont not to buy it unbaked, but in Bread; and therefore that Bread and other sorts of Victuals might not be Adulterated, but sold in due Weight and Measure; yet a more Peculiar Officer than the *Curator* was wont to be chosen, whom they called *Episcopus*, or *Inspector*, being taken out from the Body of the *Decuriones*. He had his Name from his Oversight or Inspection, which caused the *Athenians* to give the same to an Officer of theirs, whom they sent to observe the Actions of such Cities and Places as were under their Command. At *Rome* this Task was Incumbent vpon the *Ædiles*, who had the Care not only of Vendible things, but of other Matters. But to come to the other Officers. As it often hapned, that Cities or Places Corporate had Money to spare, besides such as was laid out on Necessary Expences, there was another Chosen by the *Prætor*, for putting out to Interest such, as else would lye idle, who bore the Title of *Curator Calendarii*, for a Book of Debts or Accounts of that nature was called *Calendarium*, because in those Times Interest was usually paid on the *Calends*, or first dayes of every Month, their Bonds being usually payable in one Month. Besides these already mentioned, Corporations were wont to Create other *Curators* upon occasion: as if any Debtor's Estate, by Decree of the *Prætor* was seized on, a *Curator* was appointed for the Management of it by the *Duumviri*. If any Publick Building was to be made, or Repaired, some were also wont to be Named by the *Prætor*, called *Curatores Operum*. Others were Assigned for looking to the Baths, and Walls of Towns, to the Repairing of which, the third part of the Revenue was wont to be appointed. Others to Publick Bake-houses. Some to prosecute Debtors to the Publick, and others to make or Repair High-ways, *Aqueducts*, or Publick Works, which the *Ædiles*, or *Curators* of the Place had not leisure to Attend. And in some places a peculiar Treasurer for keeping Publick Money was Ordain'd, whom, after the Example of the *Romans*, they called *Quæstor*.

Curator Calendarii.

De Curatore
urbis, vide An-
notat. Valesii in
Ammiani Mar-
cellini, lib. 14.
p. 28.
Curator est is,
qui pecuniam
Reipub. & ge-
neraliter quic-
quid ad Civi-
tatis rem perti-
net, admini-
strat; Græcè
Logista, & non-
nunquam ab
Impratore da-
ri solitus.

Seft. 2.

Zygoftates.

Procuratores
Metallorum.

Aitor or Syn-
dicus.

Stationarii,
or,

Irenarchæ.

102. There being wont to be much Controverſie about the Goodneſs and Weight of Gold, for deciding thereof in each City, one ſkilful in that way, was appointed, whom the Greeks called *Zygoftates*. In *Macedonia* or other Countreys adjoyning, after the finding out of Mines, from among the *Decuriones* certain were appointed to ſee that the Eight Scruples of Oare were duely paid to the Prince, and theſe were Termed *Procuratores Metallorum*, who were under the *Comes Metallorum*, and he and they Reſponſible to the *Comes Sacrarum Largitionum*. And whereas Places Corporate might Sue and be Sued, they made choice of ſome one, who, if unwilling, was conſtrain'd to accept of the Duty, to be their Sollicitor General, who by the *Latins* was called *Aitor*, and by the *Greeks* *Syndicus*: although it was a thing not out of uſe, for the *Decuriones* to leave it to the Diſcretion of the *Duumviri*, to find out ſome fitting Perſon to ſolicit ſome particular Cauſe. It was a Cuſtom alſo in old time, for prevention of Tumults, Suppreſſion of Thieves and Troubleſome Perſons, to have Souldiers or Armed Men placed at certain Poſts in a City or Country, who gave notice of ſuch Crimes as were committed in theſe kinds, to the *Preſident* of the Province; and from the ſeveral Stations they held, they were called *Stationarii*, being firſt appointed to this Service by *Auguſtus*. Their Duty was to give Notice of ſuch Perſons, but ſcarcely to commit them to Priſon, except they were Fugitives; and it was at their Peril, if they Accuſed Innocent Perſons. As in the *Western* Parts of the Empire they were called *Stationarii*, ſo in the *Eastern*, *Irenarchæ*, or Keepers of the Peace; which Name, in a peculiar Manner, ſeems given to their Officers, or Commanders. Theſe *Stationarii*, or *Irenarchæ* had Allowance from the Publick, both for Man and Horſe; having, beſides the Employment but now mentioned, another of taking Cuſtom of ſuch Merchandize as was imported. But whether, as often we ſee in Military men, their Idleneſs corrupted their Manners, and their Debaucheries caſt them into ſuch Want, as provoked them, for Supply, to take ſuch Courſes as tended to the Diſturbance of thoſe Countries and Places, to which they were appointed for a Defence and Security; in time they grew ſo ſcandalous, that *Theodoſius* the Younger, thought fit by a Conſtitution now extant in his Code, to aboliſh them, and give order to the *Præſectus Prætorio* to commit their Employment to others of the richer ſort of the Towns, or Country, who from any Want, as it ſeems, might not have ſuch Temptation to Rapacity. Afterwards, when *Juſtinian's Code* was compoſed, *Tribonian* utterly prevented this Conſtitution of *Theodoſius*, and by one interpolated, or patcht up together, ordains the *Irenarchæ* (whom contrary to what *Theodoſius* ſaith, that they hindred the Concord of the Provinces, ſaith, that they were the Procurers of Concord, Peace and Quietneſs;) to be choſen by the *Decuriones*, and appointed by the *Preſident* of the Province. And indeed otherwiſe it appears, that the *Decuriones* themſelves were employed about the Apprehenſion of Thieves and Robbers; and therefore the Title of *Irenarchæ* is placed in *Theodoſius* his Code, as *Gothofred* obſerves, amongſt ſuch as belong to *Decuriones*; becauſe this Task of Diligence was impoſed upon the Wealthier ſort, and conſequently upon the *Decuriones*; who moſt commonly, were the richeſt Perſons in the Corporations.

A. D.

337.

Vide Gothofred. Comment. in L. unic. Cod. Theod. lib. 12. tit. 14. de Irenarchis. Panciroli. de Magistrat. Municipaliſus, C. 18.

103. But as in moſt Cities and Places adjoyning to them, through which the ordinary Roads did lye, theſe *Stationary* Souldiers were appointed to keep Watch; ſo in the Havens, where Ships were wont frequently to arrive, were other Officers ordained to take Care againſt the Invaſion of Enemies or Pyrates, for Security of Ships, Apprehenſion of Thieves, Prevention of Tumults, and of conveying any Oyl, Wine, Lard or Iron to *Barbarians*, who were Enemies to the Empire. Theſe were called *Limenarchæ*, and created out of the Body of the *Decuriones*, where there were Havens: of which the moſt Famous were theſe of *Capua* in *Campania*, *Dyrrachium* in *Epyrus*; and *Brundifium* in *Calabria*; Beſides theſe *Aquileia* whence they ſailed to *Cyrene*, and *Berytus* in *Syria*, whence they paſſed to *Brundifium*. But thoſe that excelled were that of *Alexandria*, then the *Emporium* of the World; and *Hoſtia*, or the Haven of *Rome*, to which the whole Empire had Recourſe. In ſome Places were created *Ædiles*, for diſcharging thoſe things incumbent upon the *Curatours* of the Cities, who looked to the Rivers, Bridges, Walls and High-ways, eſpecially having Power of Fining, and of deſtroying any thing that annoyed Travelers. Further there was another Officer, whom they termed *Archeota*, becauſe he had the overſight of the Place where the Records of the Town were kept; in *Greek* called *Archeum*; as alſo *Chartophylacium*, and *Grammatophylacium*, in *Latin* *Tabularium*, and *Antiquarium*, as thoſe that had the Care of theſe *Antiquarii*. There were

Limenarchæ.

Limenarchæ, Græcè, Portus Præſectus.

Archeota,
or,

Antiquarii.

Secr. 2. others that went by the General Names of *Tabularii*, and *Scribes*: such were properly *Tabularii*, that kept Books of Accounts, and therein Entred such as paid Tributes; being, both they and their Sons obnoxious to this Service. Such as kept the Accounts of Tributes were also called *Logographi*: Those that were properly termed *Scribes*, and their Office or Employment *Scribatas*, were the Clerks of Courts, who wrote down what passed before the Magistrates and the *Duumviri*, or *Defensores Civitatum*. There were others known by the Name of *Censuales*, who under the *Magister Censûs* wrote, and kept the Publick Records wherein Testaments were proved; but especially was kept an Account of the Patrimony of each Citizen. The *Decuriones* were not to be compelled to this Employment, but having willingly taken it up, had not the liberty to lay it down at pleasure. At first the *Tabularii* were Publick Slaves, but afterwards it was ordained, that Free Persons only should be Elected.

A. D.

337.

De Tabulariis
vide omnino
Comment. Gothofr. in L. 1.
de Tabulariis,
Logographis &
Censualibus,
Cod. Th. lib. 8.
tit. 2. Cave Tabularios cum
Tebellionibus
omniscas.

104. The *Greeks* were wont in Large places compassed with Galleries, to Exercise themselves; in Inner Chambers adjoyning, to Wash and be Anointed; and near to those Rooms were the *Exhedrae*, where Philosophers met and Disputed; the Overseers of which Places had the Name of *Gymnasiarchae*. It was a Custom, that when Ambassadors came into Cities, they should be presented with Necessaries at the Publick Expence, for which a peculiar Officer was appointed, with the Name of *Xenoparchus*. There were *Camelarii*, who had the care of Camels, which carried the Baggage of the Army in Expeditions; as also others, who looked to the Conveying of Provisions and Souldiers clothes, which the Towns were bound to find. All which were Personal Employments, not obliging to any Expence, but only Personal Labour. For prevention of Fires, which ordinarily happen by Night, there were the *Nyctostrategi*. And for the Regulating of Publick Pastimes, Exercises, or Races, the *Agonothetae*, who had those that went with Rods before them, to beat away, and remove the Crowd, and thence had the Name of *Mastigophori*, though unwilling, compelled to this Personal Service. And lastly, from out of the Body of the *Decuriones*, were certain chosen, and termed *Legati*, being constrained to go as Messengers from the Corporation to the Prince, if the number of three Sons alive, or a Messlage sent on within two years before, could not excuse them. At first, upon very slight Errands these *Legati* were wont to be sent, as, merely to salute the Emperour, which put the Cities to great Charge; but afterwards it was Ordained, that none should be sent but upon Necessary Business, and that to be, as such, approved by the *President* of the Province, who was obliged to Accompany them with his Letters, as the *Præfectus Prætorio* was to Approve the Messlage of the whole Province. None was compelled to undertake the Journey and Employment at his own Charge, but received a *Viaticum*, or Allowance termed *Legatrum*; being first chosen by the City, and thereupon a Decree made and Signed by the *Decuriones*, which they called *Psephisma*.

How chosen.

105. The Custom was, for such to be employed according to his Place and Degree, the more ancient and honourable first, and then the rest in order downward, except the Greatness of the Affair required some of the better sort to be still employed. At the time of Legation they were not to embroil themselves with Business, either their own, or of other Persons; and had the Privilege not to be sued, but in case they committed any Offence, they, or their Servants were punishable at *Rome*. They were allowed Carriages; and the *Legates* of the Provinces, publick Horses. The number of the Messengers was not to exceed that of three. The Employment was personal, and could not be discharged by any Deputy, except a Son. Debtors to the Publick, and Infamous Persons, were not permitted to manage it. When the whole *Diocèse* resolved to send to the Emperour, it was determined by the major Part of the *Primates* or Chief of the Cities. If the Province determined to send, the *Primates* of the Courts met in the *Metropolis*, at the Place where they were wont to assemble, and the Major part carried it, the Assent of the *Præfectus Prætorio* being obtain'd. When the *Legati* came to the Court, they were first heard in the Auditory of the *Præfectus Prætorio* then in waiting, and their Petitions were examined, but without any Determination; for afterwards their Requests were reported in Consistory by the *Epistolares*, and received such Answer as the Prince directed.

106. These were the Officers, and such was the Government of the Cities and Places corporate; which besides their Courts and Bodies for Government, had also several Bodies, and Companies of Artificers, as we here at *London*, which were privileged with Immunity from Personal Burthens. Of them some have reckoned up two and thirty, and others thirty five. The Names and Descriptions of which,

the

Sect. 3.

Some Knowledge of the Polity of the Empire necessary, for understanding the Writers of these Ages, and this following History.

the Reader if he please, may find in *Pancirolus*, and elsewhere. For we seem in this Description of the Polity of the Empire to have been too tedious already; but the Profit, and Improvement of the Reader seems also to have required it: these things being not commonly known, and few making it their Business to understand the State and Condition of those Ages whereof we write; chiefly because they imagine them Jeune and Barren, and that little can be said, or known of them. Without a moderate Understanding of the Nature of these several Officers, he can little benefit by perusal of the Writers of these Times, and much less Profit in the Study of the Imperial Constitutions. And so we return to our *History*; which will both give to, and receive from this *Apparatus* very much Illustration. For what we have said briefly, and altogether concerning the *Polity* of the Empire, will for the most part be particularly explained, and amplified, when we come to speak of the several Laws, as in time they were enacted.

A. D.

337.

Vide L. 2. de Excusationibus Artificum lib. 12. Cod. Th. Tit. 4. & Comment. Gothofredi.

Sect. III.

The Joynt Government of the Sons of Constantine;

From his Death to that of his Son Constans; and the Usurpation of Magnentius: The Space of Thirteen Years.

The Issue of Constantine.

I. **C**ONSTANTINE the Great had four Sons, and two Daughters. The Eldest Son was *Crispus*, and he begotten of *Minervina* his Concubine. By *Fl. Maximiana Fausta*, the Daughter of *Maximianus Herculus*, he had three other Sons, *Constantine*, *Constantius*, *Constans*, and his two Daughters, *Constantina* and *Helena*. Now *Constantine* had a Wife married to him in his Father's time. Afterward, being Emperour, by an Embassy he procured another, of a most Noble Family out of *Spain*. For *Constantius*, he first married the Daughter of his Uncle *Constantius*, the Sister of *Gallus*, Betrothed to him also by his Father. After her, he wedded *Eusebia*, and at last *Faustina*, the Mother of *Constantia*, born after his Decease, and afterward married to *Gratian*. To *Constans* was given in Marriage *Olympias* the Daughter of *Ablabius*. Of his Daughters, *Constantina* was first married to *Hanniballianus*, the Son of *Dalmatius*, the Brother of *Constantine*, who by his Uncle was made King of *Pontus*, *Cappadocia*, and *Armenia* the less, being invested with a Purple Robe; and after his Death to *Gallus Cæsar*. Of *Helena*, his Brother *Julian* was the Husband.

Vide Annot. Valerij in lib. 14. Ammiani Marcellini.

The Grief which all men expressed at his Death.

2. None of the Sons were present when he died, though *Constantius* arrived not long after: but there was no need of their Presence to make a Resentment of the Loss the Empire sustained by their Father's Death: for the Souldiers that then waited, upon Knowledge of it, tore their Cloaths, cast themselves prostrate on the Ground, knock'd their Heads against the Walls, and otherwise expressed such Sorrow, as was agreeable to so publick a Calamity. And their Officers were no whit behind them in testifying their Grief with mournful and passionate Expressions; calling him their *Preserver*, *Deliverer*, and *Common Parent*. Neither were the Townsmen backward herein, to follow the Example of the Court, and Camp, running like mad men about the Streets, and bewailing their Loss, or sitting at Home dejected and oppressed with Sorrow. When Grief would give them leave, the Souldiers took up the Body, and carried it to *Constantinople* in a golden Coffin covered with Purple, where it was exposed in the Palace to be seen of all, with Lights burning round about it, and Attendants to watch it. Here Court was kept, as if he had been still living. The several *Comites*, and other Persons that were wont to adore, or salute, now doing their Duty to him as formerly. The *Senate* also paid him the same Respect, together with all the Magistrates; and the Citizens were not wanting to testify their deep Sense of his Loss, who had been so noble a Founder and Benefactor to their City. Neither did old *Rome* forget to sympathize with

Vide Dissert. Gothofredi in Philostorgii lib. 2. C. 17. Sigonius.

Sect. 3. with her Daughter, the new: for as soon as the Report of his Death there arriv'd, they shut up their Shops, and publick Baths; abstained from the *Forum*, and their usual Sports, and intermitted all those Recreations, which in Times of Prosperity were wont to be used. It's said also, that they pictur'd him sitting in Heaven, and desired to have his Body sent to them to be buried in their City. A. D. 337.

Constantius makes away his Uncle and Kinsmen.

The Sons of Constantine share the Empire.

How often Partition of the Empire hapned.

3. But this was not agreed to by *Constantius* his Son, who being not so far distant as the rest, upon Notice given, hasted to Court, and thought it most fit he should rest in that City, to which he himself had given Original. *Constantius*, either for that his Father had left such Command in his Testament because they attempted to poison him (as some improbably have reported) or rather to prevent more Competition, (for three Brothers might seem to suffice for the Government of the Empire) put to Death, or permitted to be put, his Uncle and Kinsmen; viz. *Constantius Dalmatius*, and his Sons, *Dalmatius Caesar*, and *Anaballianus*. *Zosimus* relates this, as done after the Division of the Empire amongst the Brothers; of which he will have the Uncle, and Kinsmen in a certain manner to have been Sharrers. But the Brothers were by the Souldiers declared *Augusti*, or Emperours, not till the fifth of the *Ides* of *September*; which was more than three Months after their Fathers Death; so that if the other Princes were killed by *Constantius*, presently after the Decease of *Constantine*, as some write, it must rather have been done before the Division, and most probably to prevent, as was said, more Competition. *Constantius*, and *Constans*, for some time, continued together. First in *Macedonia*, at *Theffalonica*, then at *Naissus* and *Viminacium* in *Mysia*, and thence removed to *Sirmium* in *Pannonia*; in which Country, the Division of the Empire was made. In this Division, *Gall*, *Spain*, *Britain*, and part of *Africa* *Proconsularis* fell to *Constantine*, the Eldest: to *Constans* the youngest, *Italy*, with the rest of *Africk*, *Illyricum*, *Macedonia*, and *Greece*, with what bordered upon the *Euxine* Sea; and to *Constantius*, *Mysia*, *Thrace*, with *Constantinople*, *Asia*, *Egypt*, and the Eastern Empire, as far as from *Illyricum* to *Nisibis*. This Partition was not made without some Dissatisfaction and Disturbance, which was composed by *Constantius*, for some time; but broke out afresh betwixt the other two, and after three years proved Fatal to the Eldest. The Division of the Empire was first made by *Probus*, and *Florianus*, and this Example followed by *Maximinus*, *Constantius*, *Constantine*, and *Galerius*. These first divided the Empire into several Appropriate Parts, or Portions; for although formerly *M. Antoninus* Reigned with his Brother *Vernus*, and *Severus*, with his Son *Antoninus*; yet they Reigned as one man, and there was no Partition made of the *Roman* World. The next Division was this of the Sons of *Constantine*, whereof *Constantius*, the Survivor, reunited the Empire, and so it continued, till *Valentinian* parted it again, betwixt himself and his Brother *Valens*, to whom he granted the East, for his Share, with part of the Forces. But they after a few years, and the Sons of *Valentinian* dying Childless, it returned to *Theodosius* alone, who again parted it at his Death, assigning to his Son *Arcadius*, the East, and to *Honorius* the West; yet were all things done joynly, as in one and the same Empire. This Division continued till *Valentinian* the third, and *Martian*, about which time the *Barbarians* began to seize on all parts of the West; subduing *Britain*, *Spain* and *Gall*, and at length *Italy*, with *Illyricum* and *Africk*, and so fell the Empire of the West; to which Fall and Ruine many conceive this Partition of it to have conducd. And it is easie to imagine, that hence might be multiplied Wars and Dissensions, whilst several Princes were not contented with their Shares, but each one strived to be Lord of all. But indeed we may conclude, that it was neither capable of bearing many, nor of one alone. More than one procured it's Ruin by Division, and one alone was not able to manage it; therefore must it decay by Degrees, as all Kingdoms and Principalities of too great Extent and Burthen; for which the Life, Force, Authority and Understanding of Man are altogether Insufficient.

Quicquid, exces-
sit modum Pen-
det instabili lo-
co. Seneca in
Oedip.

The Brothers fall out about the Partition of the Empire.

4. That *Constantine* himself by his Testament, or otherwise before his Death, divided his Empire amongst his Sons, hath been believed; yet it is not certain, whether, he or they, after his Decease made the Partition. For what *Eusebius*, or the Author of his Life writes concerning his assigning them several Countries, might be understood of his giving them Governments, at such time as he made them *Cæsars*. However long it was not, before they fell out about their Shares, it being a rare thing for Partners in Sovereignty to agree. And whether from Confidence in their Dissensions, or by Reason of the Death of their Kinsmen, or other Reasons, the Division was scarcely made, when Tumults and Seditions hapned in the Empire. Before *Constantius* and *Constans* parted asunder, and still resided at *Vimina-*

Chronicon Hi-
storic. Gotho-
fredi.

Sect. 3.

in Edict a-
gainst Infor-
mers

cum in the lower *Mælia*, they sent out an Edict against Informers, or Accusers, which is thought to have had Respect to those, who were falsely accused, as being of the Party of the Princes that were put to Death, or of *Ablavius* the *Præfectus Prætorio*, or *Optatus*, the *Patrician*, whom *Zosimus* writes to have been also slain by Command of *Constantinus*. It bears Date of the twelfth of *June*, and on the eighteenth of the same Month, another Constitution was given forth from *Constantine* their Brother against Libels; wherein telling the *Africans*, that his Father took Care for the suppressing of such scandalous Writings; and Commanding, That they should neither be made known to him, nor publicly seen, lest by such Devices the Life or Dignity of any one should be endanger'd; he also commands, that they be all committed to the Fire. It seems the Provincials of *Africa* had by their Messengers to him (whose Subjects they were by the Partition) complained of their Sufferings in this kind, and prayed to be relieved; and not unlikely it is that the Occasion also arose from the Tumults and Seditions, which about this time had been in the Empire. *Constans* continued still in *Pannonia*, as appears by another Edict of his which bears Date at *Sirmium* on the twenty seventh of *July*, concerning publick Works, commanding the Judges to give Dispensations to none that ought to contribute towards them; for from the Indulgence of the Prince alone such Immunity was to be sought for, which was wont to be granted in respect to some Dignity, or Service, as to *Senators* of Course, with some others; and *Veterani*, or old Souldiers enjoyed it. Now these publick Works were the Bridges, Walls, and publick Buildings, wherein the Splendor and Ornament of the Cities and Towns consisted.

A. D. 338.
L. 4. Cod.
Theod. lib. 10.
Tit. 10. de Præ-
tutionibus &c.
L. 5. de fa-
mas Libellis
Cod. Theod. lib.
9. tit. 34.
Comment. Go-
thofred.
L. 5. de operi-
bus publicis
Cod. Tb. lib.
15 tit. 1.
Vide Gothofred.
in L. L. & Pa-
ratillon hujus
tit. de operibus
Publicis.

Constantius
goeth against
Sapor the Per-
sian King.
His Edicts
concerning the
Dcuriones.

5. *Constantinus* from *Pannonia*, after the Division of the Empire, departed for *Syria*, to go against the *Persians*, whose King, *Sapor* by Name, encouraging himself by the Death of *Constantine*, and despising his Sons, now wasted *Mesopotamia*, and fate down before *Nisibis*, which near two Months he besieged. Upon Notice here- of *Constantinus* removed to *Antioch*, where, on the eleventh of *October*, in the Consulship of *Ursus* and *Polemius*, he made an Edict concerning the *Dcuriones*, lately spoken of. This Edict is followed by twenty six more published by this Emperour concerning the same Subject; from which appears what the State and Condition of the *Curiales* was at this time, and how he consulted for their Advantage. These Laws having respect to four things especially; these are The Form and Order of their Nomination. That the Courts might be supplied against the Pretences of such as would be excused. That by Punishment inflicted on such as failed, the Magistrates and *Dcuriones* might diligently discharge their places. And in the last place, he confirms to them their Privileges. The other precedeing twenty two Constitutions in the Code were made by *Constantine* the Great, his Father, by which as the State and Condition of the Places corporate, as they stood in his time do appear, so *Gothofred* tells you, that it's evident with what, and how great Study and Endeavour that Prince laboured to promote the Interest of all such Places. The Scope and Design of all which, it behooved those to exhibit, who endeavour to express the Humour, and Genius of that Prince by his Constitutions, especially; and not that of one, or two only, as *Baldwin* hath done, whose Commentaries, saith he, concerning *Constantine* the great, that I may say it once for all, contain rather a Shadow or Pourtraict of a full Work, than a compleat Treatise, as some eminent men have before observed.

Chronicon Hi-
stor. & Chro-
nol. Legum.
Hieronymus in
Chron.
L. 23. de De-
curionibus Cod.
Th. lib. 12.
Tit. 1. & vide
Comm.
ad L. primam
hujus Tit.

He sets up the
Arabians a-
gainst Sapor.

6. Ere *Constantinus* could reach *Nisibis*; his Work was done to his Hand; for *Sapor* despairing of any Success, had quitted the Place, which is ascribed to the Prayers and Sanctity of *James*, the Bishop; during whose Life and Presence there, none of his Designs could succeed against the City. *Constantinus* to divert the *Persians* by giving them something to do, procured by his Ambassadors the pilfing *Arabians*, to fall upon them, while he attending this Business, made some stay in those Parts of the *Phœnician Syria*, bordering upon *Arabia*; as at *Emesa*, *Laodicea*, and *Heliopolis*, Cities of that Tract. Having given such order to his Affairs, as he thought convenient in those Parts, he returned to *Antioch*: but the following year, (wherein he himself the second time, bore the Title of *Consul*, with his Brother *Constans*) came back again into these Quarters, as appears by the Dates of several Edicts now made by him. For being at *Laodicea*, and there instructed, as is probable, by the Lawyers of *Berytus* (the University for that Science) he reformed many things of old Custom, but very ill Consequence, and particularly took away captious Expressions used in Forms and Words of Law by a Constitution directed to *Marcellinus*, the President of *Phœnicia*, and to the People of that Province. From *Laodicea* he removed again to *Antioch*, whither carrying an Observation he had made of

By several
Edicts endeavours Reformation.

Quam nonnulli
Antiochiam
Mydonia ap-
pellant.
Chronic.
Historic. ad
Ann.
CCCXXXIX.

Scct. 3. of the ill Practices of his Subjects of *Phœnicia*, or being put in mind by others of a scandalous Custom in those parts, by a severe Edict he endeavour'd a Reformation. A. D. 339.
 The Matter this: By the most ancient Laws and Customs of the *Romans*, it was unlawful to marry, as well the Daughter of a Brother as of a Sister: but afterwards, when Licentiousness increased, a Difference was made, and it was permitted the Uncle to marry the first, but not the second, this being occasioned by the extravagant Affection of *Claudius* to his Niece *Agrippina*; for the sake of whom the Fathers, by a *Senatusconsultum*, made it lawful to marry the Brother's Daughter, which before was accounted Incestuous. By this Example and Permission encouraged, *Domitian* married the Daughter of his Brother *Titus*; but not long after, the old Law was restored, and this distinction betwixt the Daughter of a Brother and a Sister was taken away by *Nerva*, who ordained, that the Uncle should no more marry his Niece by the one, than by the other. Yet after *Nerva's* Death, what order he took herein proved ineffectual; for the Distinction again returned, it being as appears by several Laws of the Digest, and by *Ulpian*, lawful in his time (who lived in the Reign of *Caracalla*) to marry the Daughter of the Brother, though not of the Sister. And this Custom was in use in the days of *Dioclesian* and *Maximian*; but taken away by *Constantine* the Great, as should seem from *Sozomen* the Historian, who relates, that he restrained such profane and licentious Marriages, as formerly were not prohibited, although no such Constitution of that Prince be now extant. To be sure his Son *Constantius* by an Edict did now restore the most ancient Law and Custom, prohibited not only the Marriage of the Sisters but the Brothers Daughter, and not only Marriage, but any Carnal Knowledge or incestuous Copulation betwixt them, and this under no less a penalty, than that of Death. Now the People of *Phœnicia* were they to whom the Constitution was directed; because they, and the Inhabitants of the other Provinces, bordering upon the *Persians*, from them received several corrupt Principles, which were much contrary to the *Roman* Laws; as appears both from several Laws, that are yet extant, and were made to bridle their Extravagance; as also, by what the Author of *Constantine* his Life, and *Socrates*, do write of the *Heliopolitans*, their using Wives promiscuously, till *Constantine* reduced them into Order, by the Propagation of *Christian* Religion amongst them.

Siquis filiam Fratris, sororisve faciendam credideris abominanter uxorem, aut in ejus complexum, non ut Patruus, aut Avunculus convolaverit, Capitalis Sententie pena teneatur.

L. 1. de Incestu nuptiis Cod. Theod. lib. 3. tit. 12. vide Com.

For Maintenance of the War, he raises an extraordinary Supply.

7. *Constantius* spent much of this year, in those Parts of *Syria* and *Phœnicia*, being intent upon the War with *Persia*, for which he made more than ordinary Preparations: for he raised a Tax, or Sum of Money from his Subjects upon this Account, which being not in the common Course of Payments, many Persons might by their Privileges pretend Excuse; but to obviate all such Pretences, he published an Edict, whereby all Persons were compelled to contribute, and none permitted to insist upon their Immunity from extraordinary Services, in a time when the extraordinary State and Condition of the Empire called for an universal Supply; which was counted good Reason also in after-times, to dispense with such Privileges, as we may see in due Place. But to leave *Constantius* for a space and to enquire how his two Brothers managed their matters in the *West*. By the Dates of several Laws we find *Constans* about this time at *Naissus* in *Dacia*, and at *Aquileia*, at both which Places he published Edicts. By one directed to the City of the *Cirtenses* in *Numidia*, which had lately got the Name of *Constantina*; he restrains the Liberty which *Duumviri*, or Magistrates of Cities took to desert their Offices; for being obliged to be at the Expence of Gaites and Showes, they were wont to get themselves to be made *Senators*, and otherwise to decline these Services, which to prevent (as his Brother *Constantius* much about the same time dealt, much what in the same manner with *Prætors*) he Commands the Corporation to lay out the Money upon the wonted Recreations, and to constrain the *Duumviri* afterward to pay it, by destaining their Goods, if need should so require. By another Law he took Care for Causes relating to the Treasury, that those depending therein, should be speedily, and justly determined. But while he busied himself with making Laws, the noise of Arms disturbed and diverted him; the Dispute between him, and his Elder Brother being now come to that height, that *Constantine* made War upon him; the Controversie being no less, than concerning *Africk*, that belonged to *Carthage*, and also *Italy*. *Zosimus* tells us, that *Constans* desirous to fall upon and destroy his Brother at unawares, dissembled his Displeasure for three years together, and watching his opportunity, when he came into a Country that was kind and faithful to him, sent a Party of Souldiers with Show and Pretence of assisting *Constantius* against the *Persians*, to make him away; which, when he thought of nothing less, they effected. But the general opinion is, that *Constantine*

L. 5. de Annona & Tributis Cod. Th. lib. 11. tit. 1.

L. 29. de Decurionibus

Vide Chronicon Hilar. ad Ann. CCC XL. Acindino & Proculo Coss.

Lib. 2.

Constans publishes several Edicts.

Constantine his Brother makes War upon him for *Africk* and *Italy*.

Constantine

Secl. 3. *stantine* was the Aggressor in this War; and that invading the Territories of his Brother *Constans*, he was slain by his men, near *Aquileia*, in the third year of his Reign; and that before the ninth of *April*, at what time, as appears from the Dates of several Laws, *Constans* was Master of all *Africk*, which was not till after the other's Death. On the twenty ninth of the same Month he published another Edict, whereby he took away Immunities and Privileges from Tribute granted by his, and the publick Enemy, as it is worded. Now by a publick Enemy, whose Acts are hereby rescinded, can be no other than an Emperour meant, and considering the time, none but *Constantine*, by whose Death *Africk*, as well as his other Provinces, falling into the hands of *Constans*, he thought it incumbent upon him, to take Care of the publick Revenue by repealing those Immunities through which it had been diminished.

Zonaras his
Story of his
Death.

8. But as to the Death of *Constantine*, *Zonaras* tells the Story with some further Circumstances. He writes, that he first expostulated with his Brother *Constans* about the late Partition of the Provinces, requiring him, either to surrender him part of his Share, or else to come to a new, and more equal Division. This he flatly refused to do, not yielding in the least to what he demanded; whereupon *Constantine* took up Arms, and invaded the Countries of *Constans*, who being in *Dacia*, and understanding what he attempted, sent away some of his Captains against him, resolving to follow in Person with the rest of his Forces. These Officers being come near to the place, where *Constantine* was posted, a party of men lying in Ambush, rose up, and then counterfeiting Fear and Flight, drew him into the Snare, wherein being beset, he perished with most of his Followers; for his Horse, vexed by the Wounds he had received, threw him; and his Enemies taking the Advantage of the Fall, killed him in the Place. Others add, that they cast his Body into the River *Alsa*, which runs near to *Aquileia*, whether his Brother

A. D.
340.
Chron. Hist.
ric. adjeff.
Chronol. Legum
Cod. Theodosii.

Publius, ac no-
ster inimicus di-
versis Immuni-
tatem dederat,
jugorum Capi-
tationibus &
Professionibus
amputatis. Ju-
bemus ergo, ut
omnibus omnino
hæc Privilegia
derogentur.

L. 1. de Immu-
ditate concessa
lib. 11. Cod.
Theod. Tit. 12.
& vide Gothof-
red in L.
Annal. Tom. 3.

Sigonius uti
suprà.

Thereby the
Empire of the
West being
devolved upon
Constans, he
removes into
Gall.

Constans coming, celebrated his Funeral, and caused him to be reckoned amongst the *Divi*; though this ill suits with the Character given in the Edict lately mentioned of his and the publick Enemy. But thus was the Empire of the West devolved upon *Constans* alone, who from *Aquileia* travelled into other Parts, to settle his Matters in his newly gotten Possessions. Coming to *Milan*, he gave out there an Edict against such as Violated Sepulchres, concerning which it will be more proper for us to speak in another Place. From *Italy*, the following year, he passed into *Gall*, and came to *Lauriacum*, a place, as is probably conjectur'd, Situate in *Batavia* over against the ancient Country of the *Franks*. Before his Departure out of *Italy*, at *Capua* he published an Edict, whereby he much gratified his Subjects of these Parts; forbidding Souldiers in their Quarters, to take any thing by Violence from their Landlords. At *Lauriacum* he made other two Laws, for Prevention of Municipal Officers (as the *Tabularii*, *Scribes*, and *Decuriones*,) their forsa- king their Charges in the Corporations, forbidding it upon Pretence of other Ser- vice, or Employment (*Militia*) although it was in the Court it self, except they had served already in the Office, the space of five years. Now as to the Place whence these Laws bear Date, on the twenty fourth of June, in the Consulship of *Marcellinus* and *Probinus*; there were in those Times three several Towns, that bore the Name of *Lauriacum*; the one in *Noricum* and the *Western Illyricum*, where the second Legion and Navy lay; where was a Fabrick, or Forge for Targets, the principal Place on the Road betwixt *Italy* and *Pannonia*, at this Day *Lorch*, but in an ancient Inscription called *Colonia Aurelania Laureacensis*. Another in *Italy*, between *Cremona* and *Mantua*. And a third in *Batavia*, over against the *Franks*, perhaps now the same with *Larens* a Town lying betwixt *Utrecht*, and the River *Flevio*; and hence, probable it is, that these Laws were dated.

L. 1. de Siga-
mo Hospitiis
non præbendo.
L. 1. de Tabula-
riis, Logogra-
phis & Centu-
libus Cod. Th.
L. 8. Tit. 2.

L. 31. de De-
curionibus.
Lib. 12. Tit. 1.
vide Gothofre-
dum in D. L. 1.
de Tabulariis.

For in this year, which was the CCCXLI of our Lord, *Constans* resided, nei- ther in *Noricum*, nor in *Italy*, but in *Gall*, where he had to do with the *Franks*, with whom for this year he fought with success, but in that following overcame, and quieted them; it being in his second Consulship, which Office his Brother *Constantius* also bore now the third time. After his Conquest of the *Franks*, the Win- ter following he came over from *Gall*, hither into *Britain*, in very hard Weather, against the *Scots* and *Picts*, who it seems, at this time were tumultuous, even to Rebellion. Of what passed here in particular, as of most other Matters relating to War, at this time we have but very slender Intelligence; upon which account we have great Reason to bewail the Loss of the former part of *Ammianus Marcellinus* his History. But from a Law, which he passed at the Sea-side, before he embar- qued, it is probably conjectur'd, that for this Expedition he laid a Tax, or extra- ordinary Payment upon his Subjects; as also certain base Services, termed by

idem ibid. & in
Chron. Hist.
ric. ad Ann.
CCCXLI.
Constantio 2.
& Constante 2.
Coff.

L. 5. de Extra-
ordinariis sive
Sordidis Muner-
ibus Cod. The.
ad lib. 11.
Tit. 16. Go-
thofr.

Comes over
into Britain.

Sect. 3. them *Sordida murex*) from which by this Law, he frees his own private Estate, " A. D. 343.
 and the Tenants of his Lands. These Services seem to have been no other, than
 the Building of Ships, and others necessary for Transportation of his Army, now
 lying at *Bononia*, from which the Edict bears Date, and which is not to be under-
 stood of *Bononia* in *Italy*, as some have mistaken it; but of that Maritime Town in
Gall, which now is known by the Name of *Bulloigne*, in old time of *Gessoriacum*, and
 from which the ordinary Passages lay then into *Britain*. To return into the *East*,
 and make Inquiry after *Constantius*: while his Brother was yet in *Italy*, we find
 him in *Bessa*, a Town in *Thrace*, whence in the Month of *August*, he published a-
 nother Edict concerning *Decuriones*. The Month following he departed to *Anti-*
och, and thence gave out other Laws to the *Senate*, concerning *Pretors*, their usu-
 al setting forth of Publick Games and Pastimes, by the first of them moderating
 the extravagant Expence they were at therein; and by the other providing, that
 by Reason of their Absence they should not be omitted. For the Charge was
 wont to be so great, that to shun the Burthen, they would shift out of Town, and
 absent themselves: therefore he moderates their Expence by confining the first *Præ-*
tor of *Constantinople*, who bore the Title of *Flavialis*, to that of twenty five thou-
 sand *Folles*, and fifty pounds of Silver; him that had the Name of *Constantinianus* to
 twenty thousand *Folles*, and forty pounds of Silver; and the third, known by the Title
 of *Triumphalis*, to fifteen thousand of the former, and thirty pounds of the latter sort.
 Having settled the Expence thus moderately; by his second Law he commands, that
 if any one absented himself, the Games should be solemnized at the Publick
 Charge, and refunded by the *Prætor*, at his Return. Now the *Folles* (no Silver Mo-
 ney) seem to be mentioned for the Expence of the Games, and the Silver for the
Sportula, or Presents they were wont to make. Hence also we may learn, that at
 the making of the former Law, there were but three *Pretors* at *Constantinople*; but
 otherwise it appears, that even in the Reign of this Prince, there were sometimes
 five; four under the Emperour *Valens*, and no fewer than eight under *Theodosius* the
 Great. Of these some received Names from the Families and Names of Emperours;
 as *Flavialis*, *Constantinianus*, *Theodosianus* and *Arcadianus*; and some from other
 things; whereby the Glory of the *Roman* Empire was expressed; as *Triumphalis*,
Augustalis, *Romanus*, *Laureatus*.
 10. The two following years *Constantius* resided still at *Antioch*, the Court, or
 Body Politick of which City seems to have been much exhausted at this time, espe-
 cially, for that most that could find any Evasions, shunned the Offices and Employ-
 ments thereof. To prevent the Excuse of Poverty, and to settle some constant
 Rule therein; by an Edict he ordained, That he that possessed above twenty five
 Acres of Land, should be thought of sufficient Wealth to qualifie him for Em-
 ployments, but not under that Quantity. But though he had it not all of his
 own; yet if he held in his Hand so much belonging to the Prince his Patrimony
 as to make up the number of Acres, he should be bound to hold. And if any
 should fraudulently sell their Lands, all such Lands are hereby declared confis-
 cate, and all such punished in the same sort, as should obtain captiously under
 hand, any Rescript for Dispensation from these Employments, having such Estates
 as now mentioned. This bears Date of the fifth of *April*, and is directed to *Rufi-*
nus, *Comes* of the *East*. And on the eighth of the same Month another Law was
 directed to *Anaxentius*, *President* of *Augustamnica* (in *Ægypt*, and now first mention-
 ed, as a Province) whereby Order is taken, that none by pretence of any Ho-
 norary Dignity should evade the Burthen of these Offices; so great Care had Em-
 perours for Corporations. Part also of the following year *Constantius* spent at this
 City of *Antioch*; as is evident by a Law dated hence, on the first of *March*, con-
 cerning false Coin. For in his Time, as appears otherwise, besides what we have
 from the Laws, there were many guilty of that treasonable Crime. But it had not
 its Rise in his own Reign; being very common also in the Days of his Father,
 who took very much Care for Redress of this Mischiefe, by the several Laws he
 published, wherein he encouraged all such as would discover the Offenders, and
 ordained other things very remarkable: Banishment, and Confiscation of Estates
 (he making the Offence capital only to Slaves) proved not sufficient for Preventi-
 on of coining Brass Money, or Silver. As to Gold, *Constantius* now by a new Edict
 proposing Rewards to the Discoverers, ordains, that such as counterfeited the
Aureus, or Golden Coins should be burnt alive, as his Father formerly had done
 in the like Case, and as even by ancient Laws, a greater penalty was wont to be
 inflicted upon such as counterfeited this sort of Money. And this Punishment he
 will have undergone, all Delay and Appeal removed.

Constantius
makes a Law
concerning
Pretors.

L. 1. 5. & 6.
de Pretoribus
& Quæstoribus
lib. 6. Cod.
Theodos. tit. 4.

Takes Care for
supplying the
Corporation
of Antioch;

L. 33. de Decu-
rionibus.

For prevent-
ing false Coin.

L. 34. ejusde-
tit.

L. 5. de falsa
Moneta lib. 9.
Cod. Theos.
21.

& in L. 51

Sect. 3.

11. From *Antioch* he removed to *Hierapolis*, where we find him this same year in A. D.the Moneths of *June* and *July*, and as is probably conjectur'd, upon the Account of the *Persian* War, wherein he was again at this time engaged; although we have little Light concerning the Methods, or Management thereof. But for this purposehe seems hence to have published an Edict, to constrain the Sons of the *Veterani*, or old *Emerit* Souldiers, to serve in the Armies; thereby on the twenty seventh ofhe summons
the Sons of the
Veterani into
the Field.*June* commanding, that if after the Age of sixteen years, they either refused, or were unable to bear Arms, they should then be condemned to the Offices and Services of the *Curia*, or Corporations, from which otherwise they were excused.And this he did, as he hints, in Imitation of what his Father had enacted in the like Case, when he was also embroil'd in the *Gothick* War. And for the likeReason we must believe, that the year also that followed, he was still engaged with the *Persian*, against whom, as the Army marched, or lay encamped, lest the Subject should be harass'd by free-Quarter; he published an Edict, bearing Date of the eleventh of *October*, whereby he prohibits, not only common Souldiers,Forbids Souldiers to exact
any thing of
their Land-
lords.but all *Comites*, *Tribunes*, or Officers, not only to exact Wood and Oyl, but even*Mattresses*, *Pallets*, *Quilts*, (*Culcitas*) or such like Stuff from their Landlords, under great Penalty; if without their Consents, or the Allowance of the Magistrates,they took any such thing. Now by Magistrates here may be meant those called *Magistri Pagorum*, whose Employment it was amongst other Matters, to gather up

Provisions for the Army, and therewith to supply the Souldier in his Passage, without the Orders of whom, no Provisions could be taken up; therefore they

are styled *Patroni Vicorum*, because they protected the Villages, and common People, from all Insolencies of this Nature. But while *Constantius* exercised himself andhis men in Preparations and Skirmishes against the *Persians*; those he left behind, and his Subjects in other Places were not idle, but busied by him in several publick Works, For at this time he caused to be made, at vast Expence, a commodi-Makes an Ha-
ven at *Seleucia*,
and other
Works.ous Haven at *Seleucia*, cutting down a part of the adjoining Mountain, and repaired the City. He also built *Antaradus* in *Plancia*, which he named after him-self, *Constantia*, and caused to be erected publick and magnificent Baths, which also bore his Name. Moreover, at the same time *Antioch* was repaired, and beautified

with many and great publick and private Buildings. Therefore there being great need of Architects and Artificers, as his Father formerly had done, when by rea-

son of the Building of *Constantinople*, and his Churches, there was great occasion for Workmen. He also published an Edict, this same Summer, on the sixth of*July*, for their Encouragement, both to work themselves, and to teach others their Mysteries. *Constantine* in his second Law (if indeed it be his) whereby hefreed those Workmen from personal Employments, reckons up five and thirty sorts of Artificers; but *Constantius* in this Edict, only four, under the Names of *Mechanici*,*Geometrae*, *Architecti*, and such as taught how to lay Pipes in *Aqueducts*, and to convey Water; concerning the Nature of whose several Employments, it's not proper for us here to enquire.12. But this we must needs observe; that not only by reason of his new and sumptuous Works, *Constantius* might be induced to renew the Privileges grantedto Artificers, but constrained also by a Sense of publick Calamities. For during this War with *Persia*, and about these times, great Mischiefs had proceeded frommany and most terrible Earth-quakes. *St. Jerom* in his *Chronicon* tells us; that the year following the Death of *Constans* the Younger, many Cities of the *East*fell to the Ground by an horrible Motion of the Earth, and some three years after this, that *Nico Caesar* in *Pontus* was overturned, and all it's Inhabitants perished, except such as were saved with the Bishop in the Church. As also, that the yearfollowing this, and preceeding the building of the Haven in *Seleucia*, *Dyrrachium* was by an Earth quake demolished; *Rome* trembled for three dayes, and as manyNights; and many Towns of *Campania* were sorely troubled. To these *Cedrenus* adds, that in the fourth, or fifth year of *Constantius*, *Antioch* was endangered byan Earth quake of three Days continuance; that in his eighth, *Rhodes* was much distressed by the same Accident; that when *Dyrrachium*, the City of *Dalmatia*, perished,and *Rome* was in such Danger, twelve Cities of *Campania* were destroy'd; and that in the twelfth of *Constantius* the greater part of *Berytus*, the City of *Phœnicia* also miscarried. This hapned in the second year after the making of theHaven at *Seleucia*, or the Building of *Constantia*; or *Antaradus*; in which year also hapned an Eclipse of the Sun, on the sixth day of the Moneth *Dasius*. *Cedrenus*further writes, that the year that followed the Misfortune of *Berytus*, *Sapor* the *Persian* King, with all the Force he could make, fell upon *Nisibis*, against which

he

he

Sect. 3.

Sapor flies
from Nisibis.

he turned the River, and by all sorts of Engines attacked it; but with such ill Success, that having lost the greatest part of his Army, he was forced to fly. This he placeth at the thirteenth year of *Constantius*, how truly, as to matter of Fact, or Time, we cannot say: but whatever Success of *Sapor* was in this Siege, that of *Constantius* by the Agreement of Writers was generally bad in all this *Persian War*; which the more *Orthodox Christians*, according to the Judgement of Partics, concluded to have hapned to him, because of his adhering to, and countenancing the *Arrian Heresie*.

A. D.

347.

Constantius ex-
cuseth the Ci-
tizens of Con-
stantinople
from finding
of Souldiers.

13. To be sure in the year following the publishing of the Edict lately menti-
oned, for Encouragement of Artificers, by the Date and Subscription of another
Law, we find, though not the *Persian Sapor*, yet the *Roman Constantius* at *Nisibis*
in the Moneth of *May*. In this very year several testifie, that he fought a Battel
with the *Persians*, not far from that City, at a Place called *Singara*, and that by
Night, and with no good Success; but this hapned several years before the De-
feat of *Sapor*, as *Cedrenus* placeth it. But the *May* following, we find him return-
ed to *Constantinople*, where he resided the whole year, or the greatest part of it.
For on the *Nones*, or seventh of *May*, out of his tender Affection to this City,
and to cherish that, which his Father had founded, he excused by an Edict the
Citizens thereof, as well as his own Courtiers, from extraordinary Services, and
Payment of Money for finding of Souldiers, willing that they should only pay for
their Heads and Lands. Thus did he, as to this Privilege, make *New Rome* equal
to the Old; providing in many other Respects besides, for the Peopling, and
Adorning of it. But here he took Notice of a great Miscarriage, at this time, in
the Payment of the ordinary Taxes and Revenue, which was, that if one had
Lands in two several Cities or Provinces, they would get the Payment due in one
to be removed to the other Place, and so both to be discharged in one together,
which was termed *Translatio Conlationis*. Now the Advantage aimed at by ob-
taining a Privilege to do this, was not so much, for that they were any whit eased
thereby, in finding the Payments less in one Place, than another; but because one
Town might be more convenient than another, for Conveyance of the Money, by
Reason of Distance, or the Badness of Ways; or when one had several Payments
to make, he found it less inconvenient to be answerable to one Collector, than
many. For these Reasons, one or more, it was sometimes indulged; but by ma-
nifold Experience, both formerly, now, and afterward, it was found to tend to
the defrauding of the Publick, and lessening the Revenue. Upon which Account,
it was severely prohibited under heavy Punishments inflicted, both upon such as
obtain'd the Privilege, and the Officers of the *Prefectus Pretorio*, by Means of
whom it was procured. For under this Pretence many might withdraw themselves
from publick Burthens; the Collectors might well be ignorant what, and how
much was due in another Place, and the Town from which the Translation was
made, was but more burthened by it, no less a Sum being still Exacted, than what
was before the Subtraction of the mans Share thus privileged. Besides the Order
and Course of the *Fiscale*, Accounts were hereby much perplexed. "Therefore"
did *Constantius* by this Edict reduce it into the former and usual Channel, and by
the same Law, at the same time, grant Immunity from extraordinary, and sordid
Employments to *Senators*, and their Dependants. And this was but an Abridge-
ment as it were of a larger Constitution of *Constantine*, the Great, whereby he di-
stinguished betwixt Privileges granted to Persons, in Matters relating to the *Colla-
tion*, or Tax; defining, that such as respected a certain Order and Dignity should
stand; but those that were given to particular Men, to the lessening of the pub-
lick Revenue, should be abolished.

He removes a
Mischief in his
Revenue.Grants to Se-
nators immu-
nity from Ex-
traordinary &
Sordid Em-
ployments.He Prohibits
Appeals for
Debts due to
the Treasury.By another
Law further
encourages
Souldiers.

14. The next year, into which fell the Consulship of *Ensebius* and *Rufinus*, being
of our Lord the CCCXLVII, *Constantius* had his Residence some time in *Galatia*.
For from *Ancyra*, a City of this Country, he gave forth an Edict to *Theodorus*, the
Consularis of *Cælo-Syria*, bearing Date of the fifteenth of *March*, and forbidding
any Appeal to lye in Debts evidently due to the Treasury; which by another
Law afterward he reinforces; by no means permitting these Appeals, either for
Debts belonging properly to the publick Treasury, or that of the Patrimony of
the Prince, lest the Commonwealth should be endamaged by such Delays. From
Ancyra he removed, not long after: for in *May* following he was at *Hierapolis* in
Syria, whence another Constitution of his bears Date, which renewed the old
Law, whereby the Estate of such Souldier, as died intestate, and without lawful
Heirs, is adjudged, not to the Treasury, but to the Company wherein he served;
it being presumed that by the Assistance of the Company, or *Legion*, he had got-

Chron. Histor.
Gothofr. ad

Ann. 345.

L. 5. de Exatli-
onibus, lib. 11.

Cod. Th. Tit. 5.

Dat. 4. L. 1. de

Mili. Nisibi.

Amantio &

Albino Conf.

i. c.

A. D. 345.

L. 6. de Extra-

ordinariis, five

sordidis, vide

Gothofredum.

A. D. 346.

Constantio &

Constante 3.

A. A. Conf.

L. 1. Ne Conla-

tionis Transla-

tio possitnr.

lib. 11. Cod. Th.

tit. 22.

Vide Comment.

L. 8. Quorum

Appellationes

non recipiuntur

lib. 11. Cod.

Th. tit. 36.

L. unic. de No-

nis Militum,

Cod. Th. lib. 1

tit. 4.

Præter Solen-
nes & Canoni-
cas Prescriptions,
multa à
Provincialibus
Astris degnifi-
cati pollulantur
ab O. F. & alijs
& S. m. 218.
c. 25.

15. And his Story we must fetch from the same Fountains of the Laws, out of which that of his Brother is also derived, little of other Concernment being found written till after his Death. We find him, as well as the other, much concern'd for Corporations. For whereas other Laws forbade any to forsake the Duties and Offices thereof, upon Pretence of bearing Arms, he extended the Prohibition to "the three several Companies or Bodies of the *Calcarientes*, *Fabricenses*, and *Argentarii* ; commanding, that if any were found obnoxious to the aforesaid Duties, "they should be forced back to their several Courts, without Benefit to be ob- "tain'd by any Rescript or Dispensation. The Reader, by what has been already said, may sufficiently understand what the *Fabricenses* were, viz. such as made Arms ; and the *Argentarii*, those that adorned them with Silver and Gold ; amongst whom were reckoned the *Barbaricarii* ; to which we shall here add, that the *Calcarientes* were others, whose Task and Employment it was to Burn and Prepare Lime, for Publick Works ; for preparing of which, there were, not only certain Persons appointed, but certain Countreys bound to find the Stone, and particular Lands charged with this Service for the City of *Rome*, as appears from several Laws. This Edict bears Date of the twenty seventh of *June*, and on the twenty ninth of the same Month he sent out another Constitution to *Eubulides* Vicar of "*Africk* ; whereby he both gives an Historical Account of some Disorders and Op- pressions of his Subjects of *Africk*, and endeavours to prevent the like for the time to come. He tells us, that besides the Solemn and Set Payments, much more was required of the *Provincial Africans* ; and that most Unworthily by those called *Officiales*, and *Scholastici* ; not only in the several Cities, but in Man- sions also : Provisions being Extorted without Money, both for themselves and their Horses or Animals. And he adds, that he is not ignorant how these *Scholastici* very often, besides Fees, received for Pleading Causes, Provisions and Ex- pence for their Journeys, by so great Incomes to Gratifie their Avarice. There- fore he gives Command to all Judges to protect the People of their Provinces, and not to suffer these Injuries to go unpunished. Here are mentioned two sorts of Oppressors, and two sorts of Oppressions. The first is that of the *Officiales*, and their Crime is Superexaction, besides what was due to the Publick, for the ordina- ry Tributes of which they were the Gatherers, requiring their Charges over and above,

above, which the Law did not allow them. By *Scholastici* are to be understood, as is evident from the Law it self, no other than Advocates or Counsellors, by which Title *Agathias*, an Eminent Historian of this Profession, of whom hereafter we make much use, is also known. But being Accused, together with the *Officiales*, for the Exaction of Provisions, for themselves and their Horses, they seem not to have had Private Persons, but Towns Corporate, and Churches for their Clients.

16. In the following year, happened the unsuccessful Engagement of *Constantius* at *Singara*, near to *Nisibis*; and at that very time *Constans* lay at *Treviri* (or *Triers*) whence he gave out an Edict to *Eustathius*, at this time his *Comes Rei Private*, prescribing Rules, how Discovery of any Goods or Estates belonging to his Patrimony should be made. As that first, the Informer should go to the *President*, or Governour of the Province, before whom, if the Information was found Good, and Approved, this Judge was to make Report thereof to the *Comes Rei Private*; and then at length the Papers of the Information might be brought up to the Officers at Court; whither, or to the said *Comes*, leave was then given to the Informer to repair. By another Law dated not long after, on the second of *July*, he repealed a former Constitution made by him; and that at the Request, as it seems, of the *Roman Senate*. It had been the Law and Custom of old, that Appeal might lye from the *Præfekt* of the City, and that by what Person soever made. But *Constans*, some years before, had abrogated this Law; so far as it concerned *Senators* at least, whose *Præsul* and Judge of Course the *Præfekt* of the City was, and therefore he forbade them to betake themselves to any other. But this Constitution standing as Probationer for some time, was found at length to be very inconvenient, and unreasonable in this Respect, that what was first introduced for the Benefit of *Senators* (as this of the *Præfekt* being their Judge) should be wrested to their Disadvantage, for a strange thing it was indeed, that privileged Persons, as those of that Order were, should be barred of any Relief that the *Jus commune* afforded them, especially this of Appeal. And probable it is, that *Rusticus*, who at present bore the Office of *Præfekt* of the City, abused his Power, and therefore to him this new Edict for repealing the former Constitution, and Restoring the Old Law and Custom to its Antient Vigor, was directed: for within three dayes after, he was out of his Place, and one *Probinus* made *Præfekt* in his Room. Some two years after this, we find him restraining a severe course of Proceeding in *Sardinia*, against such as delayed the Payment of Tribute. It had been the Custom to put such as denied it to Torture, or to beat them with Bullets of Lead; which, as Cruel and Servile, *Constantine* had forbidden, and given this Reason for it, that such Punishment was to be inflicted, not upon Innocent, but Criminal Persons. This Law *Constans*; his Son, now Reinforced by a New Constitution, by which also, as here, he provided for the Quiet of his Subjects, so he took care that his Revenue should not be Lessened, and that by removal of another Custom, which much tended to it. It happened, that when Persons were Owners of Ground, whereof some were good and fertile, but others barren, or good for little; upon all which, taken one with another, a certain Charge of Tribute lay; rich men catching Advantage ordinarily of the Necessities, or Poverty of such as ought these Lands, would buy of them good and fertile Grounds, then pay for them only according to their Quantity, and leave the other Share to be discharged by those that were poor, and whose Lands, Barren as they were, could not sustain the Charge. To obviate this Practice he ordains, that the Barren be added to those that were Good; and that such as had purchased the fertile should pay the whole Tax arising from all when laid and counted together. This was called an *Epibole*, concerning which some have been egregiously mistaken, and thence raised slanderous Reports against *Justinian*, as in due time and place will be discovered.

17. About this time there were great Complaints against the intolerable Insolence of the Officers of the *Prince* his Patrimony; such as the Accountants, Solicitors, Farmers, and Husbandmen belonging to his Lands; who bearing themselves high upon their Relation to him, imagined they might use greater Liberty than other Subjects; and because of the Privileges they enjoy'd, no Officer, or Judge dared to meddle with, or correct them; the *Rationales*, as is probable, to shew their Authority bearing them out in what they did. *Constantine* sensible how malepert they were, had by an Edict given Power to the ordinary Judge of the Province, where they committed any Crime, to punish them no otherwise than any other unprivileged Persons; but their Confidence, either overpower'd the Mode-

sty

Prescribes
Rules for dis-
covering for-
feited Estates.

and for Sena-
tors.

For such as
paid Tribute,

and yet for
his own Reve-
nue.

A. D
348.

L. 7. de Peti-
tionibus &c.
C. 1. Th. lib. 10.
tit. 10. Dat.
Trev. Id. Maii
Amantio &
Albino Confs.
A. D. 345.

Dudam memi-
nimus fœcien-
tibus nobis effi-
Decretum, ut
Juris veteris
Autoritate sub-
motâ nullus
Clavissimus &c.
P. P. Rom.
Sext. Non. Jul
Amantio &
Albino Confs.
vide commen-

L. 7. de Exa-
ctionibus. Co
Th. L. 11.
tit. 7.

L. 4. de Ann
na & tribut.
Cod. Th. lib. 1
Tit. 1. Que
Conjicitur fu-
isse Patsejus
dem Confit.
I. de Gothofr
in L. L.

sty of the Judges, or overawed the People, so that either no Complaints were made against them, or else the Governours of Provinces dared not to exert that Authority which was given them by the Law. By a new Constitution therefore *Constantius* puts the Judges in mind of, and encourages them to their Duty, willing them to animadvert upon these Men no otherwise, or less than upon the Provincials; whether by Imprisonment, Torture, or Death it self, which Remedy he hopes may prove effectual against this Inveterate Distemper. And indeed such wholesome and severe Laws were found necessary against these Officers belonging to the Prince his private Estate, against the Insolence of Souldiers, and the *Agenses in Rebus*; which three sorts of men presuming upon their Relation, lived, as if obnoxious to no coercive Laws; yet had *Constantine* thought fit to have them more severely punished than others, as such, who ought themselves to preserve good Rule, and give good Example: and they have been judged to be burnt alive, all Encouragement being given to the People to come in, and inform against them. And whereas their Insolence made them as peremptory to refuse the Payment of Tribute, or publick Duties, as bold to commit greater Offences; by the same Constitution (divided into these two Laws) he commands, that they be forced to discharge these publick Debts. This same year being at *Siracusa*, he directed another Constitution to *Silvanus*, the Comes, and *Magister Equitum* and *Peditum* for the Reinforcement of Military Discipline; forbidding any Tribune, or Officer to give leave (*Commeatus* the word is) to any to depart from his Colours, or connive at his Departure, under pain of forfeiting five pounds of Gold. And as hereby he provided against Souldiers their quitting of Service; so also by the same Edict (divided, as the former, into two Laws) against the Attendants, Officers, or Servants of the Magistrates, their forsaking their Attendance upon other Pretexes. This Constitution was signed on the 27th of May; and on the thirtieth of the same Moneth, followed another Edict directed to *Titianus*, the *Præfectus Prætorio* of Gall, and therefore must have been of *Constantius* his making, within whose District or Share of the Empire that Country then lay. It was not lawful for Souldiers to take Families with them, when they went upon Service; and if they did, they must have Warrant and Leave expressly granted for it. Now it hapned, that many getting License to convey their Families; the *Cursus Publicus*, of which in such case they were permitted to make use, was much burthened, and several Inconveniences hapned from these Impediments in the Camp; therefore there was need to have it explained, what was meant by a Family, that so it might be known what Company they might be allow'd to take with them. "And this *Constantius* by this Edict performs, interpreting by Families, their Children and Slaves; not all, but such as had been purchased by their *Castrensê Peculium*; whereas otherwise, the word *Family* was of a far larger Signification.

He provides against the Insolence of the Officers of his Revenue.

Against Souldiers deserting the Service.

For the *Cursus Publicus*.

Magnentius elected.

18. But, it is probably conjectured, that for the making of this Law, a Matter of far greater Consequence gave the occasion, and That no less than his own Safety and Preservation. For now about this time, so great a Faction arose, that at length he was overpowered, and destroyed by it. The Rise of this Faction was in Gall, to the *Præfect* of which, this Edict is directed; the Army whereof he might have just Cause to fear, would, under Pretext of Souldiers having their Families with them, be filled with a Confluence of *Barbarians*, and particularly the Nation of the *Franks*, now hovering upon these Parts, and serving in the Armies. To be sure shortly after, if not at this time, brake out the Rebellion of *Magnentius*, who himself was descended of the *Lati Frangi*, was supported by that People, and to whom this *Titianus* the *Præfect* did adhere. *Zosimus*, no Friend to *Constantine*, and his Sons, fetches the Original of the Revolt from the great Extravagancy of *Constantius* his Life, who after the Death of his Brother, as he writes, carried himself like a Tyrant, and harassed his Subjects with all sorts of Cruelty; whom he permitted to be oppressed by such *Barbarians*, as he had bought for the gratifying of his Lust, and by such as were Hostages in his Court. This his Followers taking to Heart, and seeing him wholly given up to the Pleasure of Hunting, began to contrive his Destruction, under the Guidance, and Encouragement of two considerable men; whereof the one was *Marcellinus*, *Præfect* of his Treasury; and the other *Magnentius*, who commanded the *Joviani*, and *Herculiani*; two *Legions* so called. The Device to bring about their Design was this: *Marcellinus* gave out, that he would celebrate the Birth-day of his Son, and invited to the Feast, both *Magnentius*, and

A. D.

349.

L. 1. de juris-
dictione Cod.

Th. lib. 2. tit.

11. Dat. 5. Id.

Mar. Lincio

& Catulino

Con's. A. D.

CCCXLIX.

L. 6. de Exe-
cutionibus Cod.

et ejusdem lib. tit.

tit 5.

Et enim Com-
matus Episto-
la Magnentio.

L. 2. de re Mi-
litari Cod. The-
od. lib. 7. tit. 1.

& L. 3. de ad-
versis Officialis.

Dat. 6. Calen-

Jun.

L. 2. de re Mil-
itari et de Com-
mentis.

Hist. lib. 2.

Sigonius de Or-
din. Imperio

l. 5.

Seet. 3. and many other of the most eminent Commanders. The Entertainment lasted till A. D. Midnight, at which time *Magnentius* withdraws himself, as upon some necessary Occasion, and within a little time returns to the Company, dressed in Imperial Robes, and attended by his *Satellites*, or Guard. Some of the Company were doubtless provided and prepared before hand; but most, as it seems from *Zosimus*, looked upon it but as a Play, or a Jest; and probable it is, that if the Plot had not taken, for such it would have been owned, and might have passed. But those that were of the Conspiracy saluted him with the Title of Emperour; and the rest, whether surprized with the thing, and for want of Recollection, or affrighted at so strange a Passage, did like their Fellows; there being among them also several of the chief Citizens of *Augustodunum* (or *Autun*,) where this part was acted; by means of whom all the Inhabitants were induced to salute, and own him, as *Augustus*; such as had any mind to oppose, wanting Strength, and Assistance, so that he seized on the Palace, and distributed Money amongst the Rable.

19. Having thus far proceeded, he caused the Gates to be carefully watched, admitting every one in, but suffering none to go out, and give Intelligence what was done. And now having got the Approbation of certain *Illyrian* Troops, who were newly arrived for a Supply, as well as that, of the *Gallick* Forces, he sent away one *Gaiso*, with a Party of Men, to make sure of *Constans*. He having got some Notice of what had passed, had cast off the Robe, and endeavouring to make his Escape, came to a place called *Helena*, a Village adjoyning to the *Pyreneans*, where *Gaiso* having made Inquiry for him about the *Rhosne*, at length found him, and murdered him with his own hands; fulfilling, as is said, what was foretold him, that he should dye in his Grand-Mother's Lap, because this Village bore her Name. And so perished *Constans* in the tenth year, after the Death of *Constantine*, his Brother, in the Consulship of *Sergius* and *Nigrinianus*. A. D. CCCL. This Prince was much Subject to the Gout, which Disease is to be ascribed to his intemperate Course of Life; for of this, most Authors do make him Guilty. Being not able to look much after Business himself, it behooved him to get able Ministers; but he is accused to have made no good Choice; and not have preferred men for Merit, but for Money; which necessarily hurried him into great Inconveniences: For such Persons by their oppressing the People, brought great *Odium* upon his Government; while they laboured, not only to reimburse, but enrich themselves. And whereas his Infirmary of Body rendred him unfit for Action, he was no way acceptable to Military Men, in whom that inveterate Humour of making, and unmaking Emperours was still Predominant, and so continued for many Ages. Yet did he keep the neighbouring Nations in Peace; which he effected, rather by procuring Hostages, than any Awe or Terrour of his Arms. He was also fortunate herein, that no publick Calamity hapned in his Time, but the Provinces under his Jurisdiction rejoiced in constant good Weather, and plenty of all things. Nay *Eutropius*, one of the best Writers, assures us, that at first his Government was both Vigorous and Just, and that he had atchieved very noble Enterprizes by his Arms, and was through all his Lifetime feared by the Souldiers, yet without any great matter of Cruelty. However, (a) another wishes that his Vices had continued; for by reason of the Disasters which afterward hapned, and the Wickedness of such as followed him, they were all utterly forgotten; and that Reign of his deservedly wished for, to have returned, if it had been possible.

Procures
Constans to be
murdered.

Constans his
Character.

A. D.

349.

Ἐφ' ὧν τοῖς
συμποῖταις
ἄσπερ ἐν σκηνῇ
τὴν βασιλικὴν
ἡμεροσέμενος
ἐσθλόν.

A. D.
CCCL.

Aurelius Vi-
ctor.
(a) *Victor de*
Cesaribus. Quo-
tamen Vittia,
utinam mansi-
sent; namque
Magnentii, ut-
pote Gentis
Barbare, diro
atroque ingenio,
simul his quæ
post accidere,
adò extincta
omnia sunt, et
illud Imperium
haud injuria
desideraretur.

Sect. IV.

From the Death of Constans, to that of Constantius.

The Space of Eleven Years.

1. **F**OR, the Disposition of *Magentius*, was very Naught, which the *Romans* much attributed to this, that he came of a *Barbarous Nation*. Elevated by his Success, before he heard of the Death of *Constans*, he sent, in his Name, for such Magistrates in the Country as were most Eminent, and caused them to be Way-laid and Murdered; in which point he spared not some of his own Conspirators. His two Brothers, *Decentius* and *Desiderius*, he declared *Cæsars*, and sent them to make sure of *Gall* and *Spain*; as he also Dispatched others into *Italy*, to secure that Country; that after he had killed, he might take possession of the whole Inheritance. But, as soon as the Death of *Constans* was heard of in *Italy*, one *Nepotianus*, the Nephew of *Constantine* the Great, by his Sister *Eutropia*, had taken the Purple; and having got the Assistance of a Company of *Gladiators*, and Persons of Desperate Fortunes, went to *Rome*; which when he found seized by those that *Magentius* had sent (the People being betray'd by *Heraclides*, a Senator) he laid Siege to the City. Upon sight hereof, *Anicius*, who had been by *Magentius* made *Præfatus Prætorio*, brought some of the ordinary sort of *Romans* out against him, and engaged in Fight; but finding them to be Worsted, he Retired into the City, shut the Gates, and left them all to be slaughtered by him. But the Encouragement which *Nepotianus* receiv'd by this Success, was shortly turned into the other Extreme, by the coming of *Marcellinus*, now the *Magister Officiorum*, who being sent by *Magentius* with an Army, Engaged, and Defeated him in Battle, took him Prisoner, and cut his Head from his Shoulders; which he caused, with Insolence enough, to be carried in Triumph, and shewn about the City. Such was the end of *Nepotianus*, who having on the third of *June* assumed the Name of Emperour, perished in this manner, the twenty eighth day after. But though he was Dead, *Magentius* was not freed from the fear of Competition, over and above the Apprehensions he had of what *Constantius* from the *East* might attempt against him. For, this year was fruitful in Tyranny and Usurpation. He began the Tragedy on the first of *February*, and on the first of *May* following, one *Veteriano*, who Commanded the Army in *Pannonia*, hearing thereof, resolved to Act his Part too, having as much Right and Encouragement as the other; and being also saluted *Augustus* by his Souldiers, placed his Scene at *Mursa*, a Town of that Province. We have seen already how *Nepotianus* made his Exit, and now must fetch *Constantius* out of the *East*, before we can see the finishing of the rest.

2. *Constantius* had received news of his Brother's Death, and the Usurpation of *Magentius* with such Regret, as was suitable to Natural Affection, and the Interest of his Family; and desired above all things to Chastize the Treason. But at this time he was deeply Engaged in the *Persian War*, with *Sapor*, who having news of these Disturbances in the *West*, with a great Army Invaded, and Harassed *Mesopotamia*. He laid Siege to *Nisibis*, Attacked it with his Battering Engines; and finding stout Resistance from those within, by a Ditch drew the River away from them, that the want of Water might constrain them to yield. But the Townsmen, by digging of Wells, and the Fountains in the City, made shift good enough to supply this want: which he perceiving, by a sudden stoppage of the Stream, forced the River against the Town, and it broke down part of the Walls, which yet the Defendants again, by their extraordinary Industry Repaired. So that having in vain betaken himself to other shifts, but none succeeding, he despaired of Success; and word being brought him, that the *Massagetes* had Invaded his Dominions, he returned home, having lost a great part of his Army. *Constantius*, glad of the Leisure hereby afforded him to attend his Affairs in the *West*, and sensible in what danger they stood, bent all his Endeavours for the Reducing the Provinces Revolted. In the first place, he took care for the Reinforcing of his Armies, and that by an Edict directed to *Cretio*, one of his *Comites* of the *Militia* upon this occasion: It was not lawful for Officers at any time, no not in Peace, to dismiss any Souldier,

Sigonius.

L. 4. de Re Militari, Dat. 5 Kal. Jul. Sergio & Negriniano Col. A.D. 350. Absit hæc Lex à Cod. Justiniani.

Magentius causeth the Magistrates in the Countrey to be Murdered.

Nepotianus sets up for himself.

Is Defeated and Slain.

Sapor besieges Nisibis.

And departs with loss.

Se^{ct}. 4. or give him leave to lay down Arms, except he was either *Emeritus*, (had served his whole time) or else want of Health and of Ability required it. Yet this had been practised, and Commanders adventured to do it at such time when there was no danger of any Irruption from the Enemy, and the Borders seemed to stand in no need of Defence. *Cretio* appears to have been guilty of this Indulgence, as well as his Brethren, and to have presented an Excuse of this nature to the Emperour, pleading, that in his District there had been no occasion for the Use of his Men. Of this *Constantius* so takes notice, as seeming to remit what was past to him and his Fellow-Officers, he yet enjoyns them, upon this Occasion, to force back to their Arms, all that without Legal Cause had been Discharged.

A. D.

351.

The year 351
had neither
Laws, nor
Consuls.

3. From *Mesopotamia* he removed into *Pannonia*, the following year, which was very Notable in this respect, that there were no Laws made in it, (however that appear to us) neither any *Consuls*; at least, for such acknowledged. For though *Magnentius* and *Gaiso* were so made in the *Western* Parts; yet being in the Usurpation, they are not named; and therefore the Year is thus Characteriz'd: After the Consulship of *Sergius* and *Negrinianus*. *Constantius*, in his March from *Constantinople*, met with Messengers sent from *Magnentius*, to desire, that with his Approbation he might Reign in the *West*; which he thought he might with the more Confidence ask, because he should be content, that the other might have the Precedence in the Dignity. While *Constantius* considered what to return in Answer, they report that his Father appeared to him the Night following, in a Dream, and holding *Constans* in his hand, should bid him look upon his Brother, whom, descended from so many Emperours, a Tyrant had Murdered. That therefore he ought to revenge his Death, and not suffer the Imperial Throne to be so much Abused. Awaking in the Morning, he committed the Messengers to Custody, and marching away with all speed, came to *Sardica*, a Town in *Dacia*. But considering the Importance of the Affair, that he might not have two Enemies to deal with at once, he resolved, if possible, by some Art or other, to gain over to him *Veterano*, that with his Forces he might jointly make War against *Magnentius*, and so Destroy one Usurper by means of another. Neither was *Magnentius* so dull, as not to apprehend, the like Advantage would make also for his Interest; and therefore each of them endeavoured to make him his own. But *Constantius* came so suddenly upon the Old Man, that the Surprise gave Perfection to his former Inclinations already bent towards him, as most fit for his Friendship and Alliance; would, as the Lawful and Undoubted Emperour, bring sufficient Repute to his Enterprize, and give him an Undoubted Title. Therefore he went out to receive him upon his Approach; who, when they met, embraced him, and called him Father, in respect to his Age; carried him along with him to *Sirminum*, set him at his Table, and consulted with him how to carry on the War.

Chronic. Histor.
ad An. D. 351.

Post Consula-
tum Sergii &
Negriniani.

Sigenus.

Zosimus ubi
supra.

Constantius
goes against
Magnentius.

Brings over
Veterano to
his Party.

The Souldiers,
moved by his
Speech, De-
pose *Veterano*.

4. Matters being accorded betwixt them, they both ascended the Tribunal, to speak to the Souldiers; where the Dignity of *Constantius* his Original requiring that he should have Precedence in Speech, as well as in Place; by all the moving words he was able, he put them in mind of his Father's Liberality to them, and how many Oaths they had taken to bear intire Affection and Allegiance to his Sons; and therefore he laid before them, how inexcusable a thing it would appear, if they suffered *Magnentius* to go unpunished, who had laid Violent hands upon a Son of *Constantine*, that had been to them so great a Patron and Benefactor. The Souldiers were so much herewith affected, that (being also Bribed lustily beforehand, if you will believe *Zosimus*) they Cried out, Away with all Counterfeit Emperours, and pulling *Veterano* down from the Bench, drew the Purple over his Ears, and Voted him to a Private Life. Who thereupon cast himself at *Constantius* his Feet, and he, moved by the extreme Age of the man, easily pardoned him his Usurpation; and Confining him to *Prusias*, a City of *Bithynia*, assigned him a sufficient Revenue, and befitting his Quality, where he spent the Remainder of his days: A man of a rough and ungentle Humour, and very silly. *Constantius* thus rid of one of the Usurpers, and strengthened by the Accession of his Forces, was much encouraged to proceed in his Enterprize, and to March for *Italy*: But seriously considering further of his Affairs, he found the Estate of his own Family but very Uncertain and Ticklish; which, though secur'd from the Usurpations of Strangers, yet was like to fall to Nothing of it self. His Brothers were both Dead, and he himself having no Issue by his Wife, there remained only of his Family, *Gallus* and *Julian*, the Sons of *Constantine*, his Uncle, the Brother of *Constantine* the Great; after whose Death he miscarried, as was before said. Now so

Prop^o ad Stul-
titi^{am} simpli-
cissim^{us} Victor.

long

Sect. 4. long as he himself had hopes of Issue, lest they should ambitiously Attempt any thing, he held a strict hand and eye over them, and put them not into any manner of Employment; no not so much, as one observes, as amongst the *Suffecti*, or Honorary *Consuls*. But now perceiving, that by means of these Usurpations, there would be a contest, not only betwixt particular Persons, but Families too, it was in vain to Contest for that, which was likely of it self to fail, if the Succession were not settled in it. He therefore conferred on *Gallus* the Title of *Cæsar*, and gave him for Wife his Daughter *Constantina*. Whether more for this Reason let the Reader judge, than that which *Zosimus* out of his palpable Malice to *Constantine* and his Posterity assigns, viz. That he might thereby have an Occasion to destroy him. For after his Death he did the same to his Brother *Julian*, as we shall see. But there was also need, which *Zosimus* and others hint, of having some one in his absence to watch the *Persians*, and secure the Provinces of the *East*. The Care and Endeavour, as we have formerly said, of one Man, not sufficing for the Administration of Authority and Power in all Countries, at so great a Distance.

Constantius confers on his cousin Gallus the Title of Cæsar.

A. D.

351.

Baronius ad A. D. 350.

He proceeds against Magnentius.

Is stopped at the Straights of Adrana.

5. *Gallus* therefore having then received the new Name of *Constans*, and being made *Cæsar* on the fifteenth of *March*, was sent away to *Antioch*, there to attend the Motions of the *Persians*. *Constantius* was wholly intent upon the War against *Magnentius*, and resolved to find him out; but he prevented him, thinking it more prudent to begin elsewhere, than to expect any Action in those he called his own Dominions; and from *Gall*, and *Italy* departed unto *Noricum*, and thence into *Pannonia*. In his March he sent to *Constantius*, to let him know, that he would expect him in the Plains lying near to *Sciscia*, which the Emperor liked well enough, that Ground being very Convenient for the Fighting of Horse; but was stopped at the Straights of *Adrana* by an Ambush laid for him by *Magnentius*; who much Elevated by the Success, endeavoured to break into the Inner *Pannonia*, desirous to fight near the City *Sirmium*. While he was consulting how to pass his Army over the River *Savus*; one *Philip* came to him on a Message from *Constantius*, under pretence of making a Peace and Alliance; but indeed to make a Discovery of his Strength and Designs. *Magnentius* calling his men together, gave him Audience. To which admitted, he declared his Errand was, to make known to the Army how unseemly a thing it appear'd, that they who were Subject to *Romans*, should against *Romans* bear Arms; especially having *Constantius*, the Son of *Constantine* the great, for Emperour; that *Constantine*, under whose Conduct they had obtained so many Victories over the *Barbarians*. As for *Magnentius*, he was to be admonished to Reverence the Memory of *Constantine*, and call to mind the several good Offices done by that deceased Prince, both to him and his Parents; to quit *Italy* out of a Sense of his Obligations to the Family, and content himself with being Emperour over the *Transalpine* Provinces. This Speech of *Philip* so moved the Souldiers, that they would scarcely give *Magnentius* leave to answer. Who in short replied, that he gladly embraced Peace, and would give in his final Determination, the Day following. Then did he invite the principal Officers of the Army to Dinner, and having brought them fully over to his Interest, consulted what to do. The next day he again called the Souldiers together; and to obliterate the Sense they had of what *Philip* had said concerning *Constantine*, he much inculcated the several Affronts they had received from *Constans*, his Son; and how to avoid these Injuries and Indignities, they had promoted him to the Imperial Dignity; with which or the like Words, they were again so possessed, as to cry out, that the War was to be prosecuted; and resolved it was, that they should pass the *Savus*. This being known to those that lay in Garrison in *Sciscia*, on the opposite Shore, they resolved to hinder their Passage; and repulsed such as endeavoured to land from off the River, or from the Bridge, with such Success, that they routed, and put them to flight, to a great Distance. *Magnentius* seeing into what Danger he was brought, made a signal for a Treaty; and gave Notice, that without the Emperour's leave he would not pass the River. To which *Philip* answered; that if he quitted *Italy* and *Noricum*, and departed into *Illyricum*, then would the Emperour consent to a Treaty.

Magnentius attempting to pass the Savus, is repulsed.

Constantius suffers him to come into the Plains of Pannonia.

6. He pretending to Acquiesce herein, *Constantius* caused his men to leave the Pursuit, and suffered afterward *Magnentius* to enter into the middle of the Plains of *Pannonia*, because his own Strength lay most in Horse, and if he came to an Engagement with him, that Place would be most convenient, which lay near *Cibala*, where *Constantine* had formerly defeated *Licinius*. Part of his Army lying now in the Town, he drew a line from the adjoining Hill, all a long the space of Ground

Se^ct. 4. which at the Foot of it, lay towards the River: by which means he fortified all that Side which the River did not touch; and over the River he laid a Bridge of Boats, which he might remove at his Pleasur^e. Here entertaining his Officers at a Feast, one *Titian* a *Roman Senator*, had the Boldness to come from *Magnentius*, and in his Name reviling *Constantine*, and his Sons, to command *Constantius* to quit the Purple, if he would save his Life. With whose Language, though the Emperour was very much moved, yet he suffered him to return unpunished; although *Philip* his own Ambassador, was retained in the Enemies Camp all this while. Shortly after, *Magnentius* set upon *Sciscia*, took it by Assault, and laid it even with the Ground; and having wasted all the Country lying upon *Savus*, went to *Sirminium* to seize on that too, but was repulsed and defeated in his Councils by the vigorous Opposition made, both by the Townsmen and the Garrison. Thence he departed, and hasted to have better Success at *Mursa*, where yet he was more deceived in his Expectations. For the Inhabitants so strenuously demeaned themselves, and so plied him with Darts and Arrows, that not having with him any Engines of Battery, or other means to approach the Walls, he was very much distressed. And now *Constantius* having Intelligence hereof, quitted *Cibale*, and the Country lying upon *Savus*, and hasted to relieve the Place. *Magnentius* endeavoured by Fire to make his way through the Gates, and this Attempt being also defeated by the great quantity of Water, which the Defendants poured down from the Walls, he then heard of the Approach of the Emperour, and resolved to surprize him by an Ambuscade, laid in a Place adjoyning, which was very full of Trees. There he bestowed four thousand *Galls*, with Command, that when the Fight should begin before the Town, they should fall upon the Back of the Enemy; that being on all sides beset, he might not Escape. But Notice hereof being given to *Constantius*, by those that observed it from the Walls; he sent away *Scolidoas* and *Manadus*, two *Tribunes*, with the choicest Souldiers they could take out of the *Legions*; who stopping up all the Avenues to the Place, that none might get out, cut off the whole Party.

Magnentius
takes and razeth *Sciscia*.

Repulsed from
other Places.

Constantius
goes to the
Relief of
Mursa.

7. *Magnentius* seeing his cunning Devices to take no Effect, then resolved to try what plain and open Force would do, and gave Battel to *Constantius* in the Champian lying before *Mursa*; and so fierce a Battel was fought, with that Resolution and Pertinacy, as in the Opinion of *Zosimus*, none in all this War was like it; which much afflicted *Constantius*, though he himself should get the Better, foreseeing how exceedingly the Empire would be weakened thereby (so many Brave men falling) and exposed to the Attempts of the Barbarous Nations. This made him, while the Fight yet continued, to cast in his mind how to end the Controversie by a Treaty; but the Animosity of both sides was so great, that the Darkness of Night it self could not part them; but they still with their Swords and Spears laid at one another; as esteeming it their Happiness all to dye together upon the Spot. The Officers omitted nothing becoming them, either as Spouldiers, or Commanders, and many of them lost their Lives; whereof two or three deserved to be recorded to Posterity. One of these was *Arcadius*, *Tribune* of the *Abulci*; and another *Menelaus*, who was Captain of the *Armenian Archers*, that fought on Horseback. *Zosimus* tells us how it was reported, that this *Menelaus* with one and the same Bow would shoot three Arrows all at once, and therewith kill three several men; by which Means he destroyed great Numbers of the Enemy, and in a manner was the Author of their Defeat: but being on *Constantius* his side, he was killed by *Romulus*, the General of *Magnentius* his Army, who yet had no great Cause to boast of his Success; except in this, that he killed his Killer; for he first received a Wound from his Hands, which notwithstanding he gave not over till he had revenged it; but of it he died. At length *Magnentius* his men began to give Ground, and a great Slaughter followed; of the Event whereof he being sensible, and fearful that he should be given up by them into the Emperour's Hands, resolved to abandon these Places of *Pannonia*, and get into *Italy*, there to recruit, and try his Fortune another time. And for this Purpose he quitted his Horse, adorned, as he was, with the Imperial Ornaments, and let him go loose, that the Enemy might imagine the Rider to be slain. *Constantius* as soon as it was light, from an adjoyning Hill viewing the Plain, and seeing the River, which run by it, full of dead Bodies, wept at the Sight; and being more troubled at the Slaughter of so many men, than joyed at the Victory, commanded, all that died to be buried without Distinction, and such as were wounded to be carefully look'd to. Some say, that thirty thousand of *Magnentius* his side fell in this Fight. But in few Battels was the Strength of the Empire more impaired than in this, which was fought on the twenty ninth of *August*.

Overthrows
Magnentius in
Battel
who flies into
Italy.

A. D

352.

Sigonius.

8. Con-

Sect. 4.

8. *Constantius* staid the Remainder of this Year at *Sirmium*, and the greatest part of the next also, as appears by the Dates of several of his Constitutions, made, when he himself was *Consul* the fifth time, together with *Constans Caesar*, although *Decentius* and *Paulus* were Named in *Italy* by *Magnentius*. Into *Italy* *Constantius* sent some to pursue the Usurper, but without any Good Success, their former Prosperity Engaging them too far in Prosecution. He himself in *Pannonia* attended as well the Civil Affairs of the Empire, as Preparations for a Vigorous Reinforcement of the War, which is Evident from several Laws he made, while he had his Residence in these Quarters. He was a great Favourer of *Eunuchs*, being much Governed by them; and whether at the desire of any of them or no, now Directed an Edict to *Rufinus*, the *Præfatus Pretorio*, whereby he Granted them liberty to make Testaments, or Declared them to have Power so to do. For whether they could do it, or not, there was cause of Doubt, for that this Liberty was granted only to those who had arrived at Puberty, whereas *Eunuchs* do not *pubescere* at all; they being, as the Emperour *Alexander Severus* termed them, a Third Kind of Men; and for that reason *Mamercus* the Consul, denied to *Genusus* the possession of an Estate, according to the usual way. And though formerly such had Power to make Wills, yet it was not till the Eighteenth year of their Age, at what time Puberty ordinarily is found with all men. But *Constantius* gives them by this Law the same Privilege as others enjoyed, both as to the making of Wills and Codicils, provided the usual Solemnities were strictly observed. But it was his Interest to Oblige other sorts of Persons, besides *Eunuchs*. Removing to *Sabaria*, another City of *Pannonia*, by another Edict he removed the Fears of such as were in danger to be cast out of Possession of what had been given them by *Constantine* his Father; That Prince had been the most Bountiful of all others, especially to Churches; and that out of the *Res Privata*, or his own Private Patrimony; which Gifts, while he yet lived, some Persons went about to make Void and Null: and this moved him by several Constitutions to provide for the Establishment and Ensuring of them. Now, being Dead, several Courtiers and *Eunuchs* especially, to have the greater opportunity of getting, endeavoured also to Reduce these Grants to their Fountain, and Restore them to the Emperour's Estate, which he obviates by this Constitution. Being again returned to *Sirmium*, he did a thing Grateful to the Souldiers *Emeriti*, or *Veterani*, by a Decree directed unto *Helpidius*, the *Consularis* of *Pannonia*, whereby he Confirmed the Privileges formerly Granted to them; and particularly, Immunity from Personal Services.

9. But *Magnentius*, as we said, being Beaten out of *Pannonia*, went into *Italy*, and betook himself to *Rome*, whom *Constantius*, when all things were ready for his Expedition, pursued in Person. His Captains, though at first they seemed to have had no good Success, yet now, Animated, as it were, by the Emperour's Presence, had the better of the Tyrant; and *Constantius* himself breaking into *Aquileia*, he was driven from the City, and out of the Country about *Autumn*, or the Month of *September*, and fled into *Gall*. About this very time, to remove Desperation from all that had taken part with him, or been drawn into his Party, *Constantius* published an Edict, whereby he granted free and full Indemnity and Pardon to them, such only excepted, as had together with him, been guilty of the many Murders committed since the Revolt. And the more to inhaunce the just Repute of the *Military* Profession, by an Edict he forbad, that any should obtain Privileges granted to the *Veterani*, or those that had served up their full time in the Camp: But for a vigorous Prosecution of this and other Wars, all Encouragements would little prevail, if there were not had an especial Care of the Choice of *Tirones*, or new Souldiers; concerning which we must acquaint the Reader with a matter of Importance, relating to this very Age whereof we write. They were wont, in old time, to raise *Tirones*, or new Souldiers, for Supply of the Armies; but this was nothing comparable to the Invention of these Ages. For now (as is at this day practised here in *England*, in forming the *Militia* of the Counties) Persons were charged with finding men to serve in the Armies, according to the value of their Lands, or other Estates; which Institution was good and laudable, tending in it self, to the increase of the Power Imperial, and the Defence of the Provinces: but so it was managed, that it proved rather the Destruction of them. For some furnished out, either such as were either unfit for Service, or else Cowards, which absented themselves, and often ran away. Therefore to obviate the Fraud of the Provincials in this Matter, *Constantius* now published another (a) Constitution, for the Proof of the Original, Age, Statute and Condition of such as were sent to serve. Their Original was to be approved, and that before the

Makes a Law
in favour of
Eunuchs.

Confirms what
his Father had
Granted out of
the *Res Privata*.

Pursues *Magnentius*
into
Italy.

Publishes an
Act of Oblivion
to draw
away his men.

And another
Edict about
the choice of
new Souldiers.

A. D.

353.

Cod. Justin.
lib. 6. tit. 22.
L. 5. (& vide
Notas) Kal.
Martii.
Dat. Sirmio.

L. 6. de Petitio-
nibus, &c.
Cod. Th. lib. 10.
tit. 10. Dat.
Sabarie 8 Id.
April.

L. 6. de Veter-
anis, Cod. Th.
lib. 7. tit. 20.
Dat. 8. Kal.
Jul. Sirmio.

Chron. Histor.
ad A. D. 352.

L. 2. de Testim-
onibus, &
Protect. Cod.
Th. lib. 7. tit. 21.
Abest hæc Lex
a Cod. Justin.

L. 1. de Tironi-
bus, Cod. Th.
lib. 7. tit. 13.
Dat. prid.
Non. Jul. Con-
stantio Aug. 6.

& Constante
Caesare 2. Cons.
A. D. 353.
Vide Notas &
Comment.

Decuriones;

sect. 4. *Decuriones*; lest that any by betaking himself to the Army, should desert the " A. D. Service of Corporations, or any other should quit the Army, and shelter himself " 353. in their Employments. To prevent which, several Laws were made, as we have already hinted. Now the Service which *Legions* performed, was very hard and severe, in Comparison, especially, of the *Auxiliary Troops*; so that in them there was no Fear, that any would list themselves to shun the Services of Corporations; but that of the *Auxiliaries*, being mild and easy, he ordains, that into them none " should be admitted without a Certificate obtain'd from the Judge of the Pro- " vince, that the Person was no *Decurio*. And lastly, whereas the Age of such as " were sent into the Armies was wont to be raw, (and indeed it differed, both ac- " cording to the Customs of Countries, of several times, and the Laws) he " limits it at perfect Puberty (Puberty being always the General Rule, but " ordinarily the First, and Beginning) when they had passed their nineteenth " Year.

Magnentius
again Defeat-
ed.

10. This Law, we may Rationally enough conclude, was made, on purpose for the more Vigorous carrying on of the War against *Magnentius* in *Gall*; for now was it Prosecuted with all Industry imaginable; and the Success was such, that in the very following Month, after the Date of it, *Constantius* reaped the Fruit of his Labours, and the other received the Reward of his three Years and six Months Usurpation. But the Opposition he made was so Resolute and Pertinacious, that several Fights happened betwixt them, with various Success. At length being Worst-
ed in a place not far from *Lugdunum* (or *Lions*) he betook himself to an adjoyn-
ing Hill, where, seeing his Men discouraged, even as almost to Despair of any Safe-
ty, he made a Speech to them, to cheer their Spirits; to which, when they Accla-
med, as the manner was; by a strange Mistake, they saluted him by the Name of *Constantius Augustus*, instead of *Magnentius*. Herewith, as an ill Omen, exceedingly dejected, he departed to a Village call'd the Hill of *Severus*, belonging to the *Cottian Alps*, and thence sent to the Emperour a Messenger a Person of *Senatorian* Rank, about a Peace, whom *Constantius* did not admit to his Presence, supposing him but to be a Spy, as neither several Bishops employed on the same Errand; but, many of his Souldiers falling off to him, hastened to find him out, and put an End to the Controversie. *Magnentius* perceiving there was no Place left for Pardon, resolved then to do his Worst, and reinforcing his Army, as well as he could, that he might give a Diversion to the Enemy, he sent one away to *Antioch* to murder *Gallus Cæsar*, who afterward was discovered, and suffered as a Traitor. Then followed, at the Place last mentioned, whither *Magnentius* had betaken himself, another Engagement, wherein he was again Worst-
ed, and thence fled to *Lions*. Those that escaped with him, now utterly despairing of their Cause, resolved to give him up to the Conqueror, and for that Purpose watched the House where he lay; which observed, drove him into such Fury; that his Friends and Relations that were about him, he first slew with his own hand, and having mortally wounded his Brother *Desiderius*, amongst the rest, at last dispatched himself, lest he should fall alive into the Power of *Constantius*, and be put to a lingering Death. Having set his Sword-Hilt to the Wall, he ran against it, and so with a great Issue of Blood at his Nostrils and Mouth, as well as the Wound, he let out his Life, about the beginning of *August*: For as to the precise Day, Writers differ. *Decen-
tius*, his Brother, hastening to his Relief, when he heard of his End, hanged him-
self, at *Senona*, on the eighteenth of *August*. *Magnentius* was a man of a vast Bo-
dy, and as extravagant Morals; and thus having reaped the Fruits of his Usur-
pation, and Tyranny (for he first by murdering his Sovereign, cast dirt upon the *Christian* Name, if a *Christian* he was) the Monarchy of the *Roman* Empire was again devolved upon *Constantius*, in the seventeenth year of his Reign, the eleventh Indiction. A. D. CCCLIII; he himself the sixth, and *Constantius* (*Gallus*) the second time being *Consuls*.

Chronica
Histor.

Once more
Defeated;
and

Killeth him-
self.

Vide Chronic.
Historic. ad
A.D. 353.

A Statue Ere-
cted at Rome
to Constantius.

11. The Report of *Magnentius* his Defeat and Death, being arriv'd at *Rome*, *Ner-
tius Cerealis*, who had been *Præfect* of that City since the twenty sixth of Sep-
tember of the preceding Year, Erected a Statue to *Constantius*, with an Inscription, Declaring him to be the Restorer both of the City and the World, and the Ex-
tinguisher of the late pestiferous Tyranny, as he terms it; which Inscription, as *Baronius* tells us, by the Mistake of him that Copied it out, was judg'd to have re-
lated to the Times of *Constantine*; but he now restores it to its proper Place, which indeed, had been already done to his hand, whether the Cardinal knew it or not, by *Sigonius*. But *Constantius* coming to *Lions*, that he might take away the Fears of such as had been guilty of the late Defection, and so settle these Parts in their former

Restitutori ur-
bis Romæ, atque
Orbis, & Ex-
tinguitori Pestif-
eræ Tyrannidis
Dn. N. Fl. Jul.
Constantio Vi-
ctori ac Trium-
phatori semper
Augusto, Ner-
tius Cerealis.
V. C. Præfectus
urbis vice sacra
judicans D. N.
M. que ejus.

Secl. 4. former Obedience to him and his Family, made an Edict bearing Date of the sixth of September, from this City, and Directed to this *Cerealis*, whereby he Grants, as all Wise Princes have been wont, Indemnity and Pardon to all Persons concern'd, except such as had committed any of the five Crimes to which Death, as a Punishment, was Adjudged, and amongst which Murder is supposed to have been one, and hereby he made good, what by another Edict he had promised to the Followers of *Magnentius*, to bring them off. And to Quiet their Minds, there was great need of such an *Amnesty*, or General Pardon and Oblivion; so many having been drawn into Offices and Employments under him, and those not of the Meanest, but often of the Greatest Quality: for not only in *Gall*, but in *Italy*, and the City of *Rome*; *Magnentius* ordained Judges and *Præfects* of the City; he bestowed the Dignity of *Comites*, and the Supreme one of *Consul*. But, lest the Unjust Acts, either of him or his Judges, should have any Force to the Oppression of the Innocent, or such as had stood to their Integrity and Fidelity; by another Necessary Law, he Commanded all such Acts to be Null and Void; which Law, although the Date of it Assigns it to the preceding Year; yet all things considered, we cannot, but, with *Gothofred*, be of Opinion, that it was not made till after the Death and the Destruction of the Usurper; and some Error was committed as to the Numerical Letters, and Assignment of the *Consulship* of the same Persons. For *Constantius* the Emperor, and *Constans* the *Cæsar*, were *Consuls* for three years together. *Christians* do tell us, that several Acts of Cruelty were exercised by the *Tyrant* towards *Christians*. *Heathen* Writers speak also of the most grievous Proscriptions made by him, besides several heavy and unjust Laws. Hereof one, required half of the Estates of his Subjects, and another permitted Slaves to accuse their Masters. He constrained whom he thought fit to buy Lands, or Things belonging to the Imperial Dignity, and spoiled many of what they had; which whether Lands, or other Matters, were restored by *Constantius* to the right Owners by this Edict; as indeed the Custom was in all well ordered Commonwealths, after the end of any Rebellion or Usurpation; but as we have already said upon another Occasion; Spontaneous Acts, such as Emancipations, Manumissions, Bargains and Transactions betwixt man and man were to be held good, else all would have been unravelled, and put out of Order; therefore by this same Edict he declares them Valid.

Who publishes another amnesty.

And upon pain of Death commands the Rebellious Army to apply themselves to some course of Life.

12. But foreseeing how upon the Disbanding of so many men, as, being old Souldiers, might now receive their Missions, or Ease, great Robberies possibly might ensue, to the great Damage and Regret of the Countries; by an Edict he commanded such (as his Father before him had done) either to apply themselves to Tillage, or to Traffick, and Merchandize under pain of Death: Assigning this Reason, that such ought to lose all Privilege as disturbed the publick Peace; so as if they offended in the least, no Punishment should be thought too great for them. Being rid of the Usurper, to secure the *Western* Parts; he seized and fortified the Mouth of the *Rhone*, and the Passage of the *Pyrenean* Hills. Then he removed to *Arelatum*, or *Arles*; where for Joy he celebrated the *Circensian* Games, and obviated an Abuse which was committed by occasion of the Privileges granted to the *Veterani*. For when Letters testimonial were given to them concerning their Service perform'd, the Dignity of *Protectors* (of which formerly) was usually also conferred on them, which was both great in it self, and had great Immunities accompanying it: As, Excuse from sordid and extraordinary Employments, and from ignominious Beating, to which others were Subject; Enjoyment of great Privileges in Traffick; Allowance of the Prescription of the *Prætor's* Court; freedom from fighting of *Tirones* (or new Souldiers) and the like. Therefore well was he that could attain to this Dignity of *Protector*; and not only the *Veteran* required it, as they might, but *Tirones*, also, and other sorts of Persons sought for it; even those that were obnoxious to, as members of, Bodies Corporate; as *Decuriones*, those that were of Companies, as Tradesmen, and the *Officiales* or Attendants of Magistrates. Now all these, to prevent such defrauding of the several Bodies, and Magistrates concerned, the Emperours by several Laws, did before prohibit the Enjoyment of the forenamed Dignity and Privileges, and *Constantius* now in particular, forbids them to the *Curiales* (as did his Brother *Constantinus* in the like Case) this being a Rule, both with him, and other Princes; as to hinder the lessening of their Armies by Pretences of Souldiers their Relations to Magistrates, or Corporations; so also to prevent the deserting of Duties and Services of Places corporate, under Pretext of Relation to, or Privileges received from, the Military Employment.

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L. 2. de Indulgent. Crim. ubi suprà. Vide Comment.

L. 5. de Infirmis mandis his que sub Tyrannis Cod. de lib. 15. Tit. 14.

L. L. 2. & 3. de diversis Officiis etc. Cod. Th. lib. 8. Tit. 7.

13. The former part of the following Year, which was the eighteenth of his Reign, when he himself the seventh, and *Constans* (or *Gallus*) *Cæsar* the third time were *Consuls*, he continued at *Arles*; but thence removed in the Spring to *Valentia*, undertaking an Expedition against *Gundomadus*, and *Vadomarius*, two Brothers, and Kings of the *Almans*; who with their frequent Incurſions waſted the Borders of *Gall*, and the Provinces thereto adjoining. At *Valentia* he made ſome ſtay for the Proviſions of the Army, of which the great Floods now abroad hindred the Conveyance out of *Aquitain*. And here he was entertained with unwelcome News out of the *East*; where his Nephew *Gallus* acted the Tyrant and Madman, to ſuch a Degree, that his Government of thoſe Provinces was utterly intolerable. So mightily was he puffed up with the height of his Place, to which from the depth of Miſery and Deſpair, he had been unexpectedly advanced; that, as one who from long Imprisonment in a dark Dungeon, is brought ſuddenly into the Light, growes giddy and diſturb'd in his Phancie, not knowing well what he ſaid, or did, he brake out into all Acts of Extravagance; to which would have been added Violence againſt him that raiſed him, had he had as much Power and Opportunity, as Ambition. And if ever his Paſſions a little cool'd, they were ſuddenly blown again into a Flame by the as reſtleſs and extravagant Spirit of his Wife; a Woman above Meaſure puffed up with the Conceit of the Greatneſs of her Birth, having been formerly married by *Constantine*, to King *Anniballianus* (ſo our Author calls him) his Brother's Son; a very Mortal *Megara*, ſaith *Ammianus*, a daily Inflamer of one, who of himſelf continually raged; and as greedy of Man's Blood, as her Huſband. For the more effectual Shedding hereof, lying at *Antioch*; they made uſe of cunning Spies and Tale-bearers, who inſinuating themſelves into Company, reported back, not only all, but more than they had heard, and accuſed ſeveral innocent Perſons of Treason, and other feigned and heavy Crimes. Under theſe Pretexes, if any one deſired to be rid of a Perſon againſt whom they bore Malice; it was eaſie to procure for a good Reward, the party to be made away. There was one *Clematius*, a noble man of *Alexandria*, whoſe Wife's Mother burning in Luſt towards him, and not able to prevail, turned her Love into ſo great Hatred, that getting Admittance to *Constantina*, by a Preſent of a Rich Bracelet, ſhe procured a Warrant to *Honoratus*, *Comes* of the *East*, to put him to Death; which was done accordingly. Some upon mere Suſpicion were murdered, and others turn'd out of their Eſtates to beg their Bread; no Accuſer being ſeen, no not ſo much as a Slave, which the greateſt Tyrants moſt commonly were wont to make uſe of, to put ſome Colour of Juſtice upon their Proceedings. But leſt there ſhould be wanting Informers, *Gallus* himſelf would take the Pains to make Discoveries in his own Perſon, walking *Incognito* by Night through the City, and in the *Greek* Tongue, inquiring what People ſaid of *Cæſar*, till he became notoriously known. *Thalaffius*, the *Præſectus Prætorio*, who was with him, might have much obviated theſe Miſchiefs, if he had prudently gone about it. But being a man alſo of an arrogant Humour, he contradicted and oppoſed him with too much Heat, and at unſeaſonable times; and ſent Informations of all his Actions to the Emperour; not covertly, but (none can tell out of what Deſign) with Purpoſe that it ſhould be known.

Gallus acts like a Madman

And by the Indiscretion of *Thalaffius*.

Is hurried into all Acts of Deſperation.

The *Iſauri* Rovers diſperſed.

14. This drove him into all Acts of Fury and Deſperation, and hurried him into outrageous Proceedings, without any Hope of being reclaimed: at what time the *Eastern* Provinces received ſufficient Damage otherwiſe, without the Miſchiefs ariſing from his ill Adminiſtration. For the *Iſauri*, a people addicted to a ravenous and pilſring ſort of Life, by their ſudden and ſecret Invaſions much diſtreſſed the neighbouring Countries; to be revenged (as they pretended) for the Injury and Affront offered to their Nation at *Iconium*, a Town of *Pſidia*, where ſome of their Countrymen were, contrary to Cuſtom (now in times of *Chriſtianity*) expoſed to Wild Beaſts upon the Theatre. They firſt applied themſelves to riſing of Merchants Ships that lay upon the Coaſts; ſtealing by Night out of their lurking Holes, and when their Booty there failed them, betook themſelves into the Inland Countries; where killing and ſtealing all they could; at laſt they laid Siege to *Seleucia*, the Mother of Cities, as *Ammianus* ſtyles it. Hereof many Complaints having arrived, *Gallus* therewith moved, for that the *Maſter Equitum* was then employed elſewhere; commanded *Nebriſius*, now *Comes* of the *East*, to relieve the Place: who with as great Forces as he could, haſted to raiſe the Siege; but was prevented by the Rovers; who upon Notice of his coming, forſook their Ground, and without any thing more performed, diſperſed themſelves throughout the adjoining Mountains. At the ſame time an Attempt was made by the *Perſians*, but

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Constantio

A. 7. & Gal-

lo Cæſure 3.

Coſt.

Ammianus

Marcellinus vi-

rum Geſtaram

lib. 14. initio.

with-

sect. 4. without any better Success, upon *Batne*, a *Municipium* in *Anthemusia*, a Province of *Osdruena*. *Nobedares*, the General, had Orders to fall upon *Mesopotamia*, as that which lay most conveniently for their Incursions; but the Danger it was exposed to was a means of its Safety; all the Garisons and ordinary places of the Souldiers Residence upon the Borders, *Prætentura & Stationes Agraria*, being so well Furnished, that he could not with the least hope Attacque any of them. Therefore he Aimed at this *Batne*, a Town Famous for a Mart held there yearly, about the beginning of *September*, for Wares of no smaller Consequence than those of *India*, the *Seres*, and others Imported both by Sea and Land from other Places. And by the Wilderness adjoining, and the Pastures, he endeavoured to steal upon the Town; but was timely discovered, and all his Endeavours that way rendred Ineffectual. The *Saracens* in the mean while had better fortune, who neither being such as the Empire could wish its Friends nor Enemies, Roving far and wide, Destroyed on a sudden all they met with; therein resembling much the nature of the *Kite*, saith our Historian, who, if from on high he espy his prey, with a speedy Wing instantly snatcheth it; and if he be Master of it, staves not so long as to afford any opportunity to the Injur'd Party of Recompensation, or Revenge.

15. *Constantius*, in the mean time Wintering at *Arles*, though he had celebrated the *Circensian Games* at the entrance of his *Tricennalia*, with great Magnificence; yet therewith could not be so diverted, as to satisfie his Melancholick and Suspicious Humour. So Fearful he was made of Plots against his Life, by the late Treason of *Magnentius*, that Distrusting all men, he interpreted whatever they did or thought, to be intended against himself; and by the Death of several Persons, rendred the late Victory no way acceptable, notwithstanding the Law of Indemnity we not long since mentioned. For, if Credit may be given to our Historian, such of the Army, or Nobility, or the Middle sort, called *Honorati*, (or such as had born Offices,) who were but Accused, or Slightly mentioned to have been of the Tyrant's side, were first fettered like Beasts, and then either put to Death, deprived of their Estates, or Condemned to *Illands*, without any Accuser appearing. And this increased the Hatred of the People, hence conceived, that he was Inexorable, and Pardoned none that were once Sentenced; being provoked by those about him, who would not cease to inculcate, that the Safety of the whole World depended upon the slender Thread of their Emperour's Life. He that most insisted hereon, and filled the Emperour's Jealous Head with Suspitions was *Paul*, a *Notary*, born in *Spain*; one who being like a Thief, crafty in finding out and taking such like as himself, was sent hither into *Britain*, to reduce such Souldiers as had fallen off to *Magnentius*: and having made his Ends of them, and tasted the bewitching Sweetness of Money, was now by his greedy Appetite driven headlong into all vilanous Practices against the Lives and Liberties of all sorts of Persons, how innocent soever, that he might go Sharer in their Estates. This procured a dismal Tragedy, which in our Writers Opinion, and that deservedly, cast a great Blot upon the Reign of *Constantius*. One *Martin*, at this time governed these Provinces, as *Vicar*; who often endeavoured by his Intercession to stop the Career of this Vilany, and procure Rest for those, who had not given any Occasion for Disturbance; and the Contest betwixt him and *Paul* came to that height, that he threatened to be gone, and quit his Place, rather than torment his Senses by a continual Apprehension of such Outrages, as he committed. *Paul* seeing how this would put an end to his Trade, resolved to put him amongst such as he had yet reserved to his false Accusations, and importuned them at Court, that he might be brought up as well as the rest, of which *Martin* having Intelligence, made an Attempt to kill the Vilain, and when he failed therein, punished himself for his Failure in the same kind. *Paul* having thus escaped, pursued his Enterprize, and carried up his Prisoners in Chains (from which he received the Sirname of *Catena*) to Court; where some were committed to a tedious and irksome Prison; others delivered into the Hangman's hands to be tortured; some proscribed and sent into Banishment, and others put to Death: This being observed for a Rule in *Constantius* his Days, that none escaped Condemnation in some of these Kinds, of whom it had been but whispered, that they were guilty Persons.

16. At this time *Memmius Vitrasius Orfitus* was *Præfect* of *Rome* (from the tenth of *December* of the preceeding year) a man prudent enough, and understanding in the Practice of Courts; but not so learned in the Liberal Arts, as became a man of his Nobility and Rank; and insolently proud upon this his Preferment. Through his careless Administration great Tumults were occasion'd in the City, for want of

De Prætenturis & Stationibus Agrariis vide Anno: Tituli in hunc locum Marcellini. Prætentura sunt Præsidia Militum, quæ pro Castris securitatis causâ prætendebantur; hoc est, ante tendebantur. Stationes Agrariæ sunt Præsidia Militum, quæ in Castris, aut Aggribus Publicis Explorandi gratiâ Constituuntur, cum Hostis non procul absit; vel paucis temporis intra limitibus tantum dicuntur.

Agere illas Provincias pro Præfectis. Aliud est agere pro Præfectis, aliud agere pro Præfecto. Agere pro Præfectis dicitur, quod ordine Codicillorum Vicariam potestatem exercet: Agere pro Præfecto, cui Præfectus ubi, vel Prætorio in speciali quodam Negotio vires suas mandavit. Vide Val. sibi Annotationes.

Splendore liberalium doctrinarum minus quam nobilem decuratur institutus.

Sect. 4. Wine, which the *Præfekt*, of course, was to provide; all sorts and Degrees of Men being Degenerated, and nothing Serious or Memorable acted there, as *Ammianus* shews at large, in divers particulars. And at *Antioch* things were more out of Order, where *Gallus Caesar* was a Plague and Burthen to all good men, as well the *Honorati* and *Primates* of Cities, as *Plebeians* (so our Author distinguisheth;) and upon a Trivial Occasion had put to Death the Principal *Senators*, it *Honoratus*, the *Comes* of the *East*, had not with a most constant Resolution opposed it. With Bloody, and for that reason Prohibited, Shows upon the Theatre, he was wonderfully delighted. Being on his way to *Hierapolis*, and on a pretended Expedition, the Citizens of *Antioch* put up a Petition to him, to find out some course to prevent the great Scarcity of Victuals, of which they were apprehensive; in answer to which, he did not enter into any Consultation, or make Use of such Means, as other Princes were wont in the like cases; but delivered up into their hands *Theophilus*, the *Consularis* of *Syria*; often protesting that it was the Governour's Fault, if any Inhabitant wanted Necessaries: and this his Encouragement drove the Rabble into that Rage, when it wanted Bread, that they set fire to his House, and so Beat and Abused him, that thereof he died; leaving a Warning to other Magistrates, what they must expect from so Worthy a Prince. This, and other Matters being brought to *Constantius* his knowledge by *Thalassius*, or others, he Resolved, in order to the Maltering of him, first to withdraw his Strength, and under pretence of Danger, which he saw might arise to his Person from the Conspiracy of so many idle Souldiers, as served under him, he removed such Forces as there lay under his Command; bidding him be content with the *Palatine Scholes*, and of the *Protectors*, with the *Scularii* and *Gentiles*; and enjoined *Domitian*, (now from *Comes Largitionum* made *Præfekt*) that when he came into *Syria*, he should by Gentle means labour to reclame him from these Extravagant Courses. But he being with great speed arrived at *Antioch*, took a quite contrary course; for he did not so much as go to Wait on him, as his Duty was, but with Great Pomp passed on to the *Prætorium*; and after this, pretending Indisposition, neither came to Court, nor appeared abroad; but keeping himself up, plotted how to destroy *Caesar*: and for that purpose, amongst the Accusations he sent to the Emperour, shuffled in some things, which might better have been omitted. Being, with much intreaty, at last brought into the *Consistory*, without any Complement, or any other expression of Civility, he rashly and indiscreetly bade him be gone, as he was Commanded; and told him, he would have him to know, that in case he did not Obey, he would order both his own Allowances, and those belonging to his Court to be stopped; He, as *Præfekt*, having the Charge of Provisions, which to *Caesar* were allowed, and Distributed to his Attendants from the Emperour, as well as to Apparitors, or any other Ministers. Having arrogantly spoken so much, he departed Frowning, being, as he was Born, a Clown; and though often sent for, would come no more into *Gallus* his Presence.

Gallus Caesar a Plague to all Good men under his Power.

Constantius endeavours to Master him.

Domitian the *Præfekt* indiscreetly demeans himself.

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He and *Montius* the *Quæstor* murdered by *Gallus* his men.

17. *Gallus* hereat vehemently moved, as one who formerly did but pretend, but now in earnest did suffer, and was rudely dealt with; ordered the *Præfekt* to be safely Watched, by such of his *Protectors* as he could trust. This being known, one *Montius*, at this time *Quæstor*, a man by Nature severe enough, but yet more inclining to Gentleness, than the other, as one Concerned by Common Interest: first, Tampered with the Advocates of the *Palatine Scholes*, to whom he inculcated, that these things ought not to be, neither would any Good come of them; and in an upbraiding manner he added, that if such Courses were pursued, they would first Demolish the Statues of *Constantius*, (the usual way of beginning a Rebellion) and then proceed to consider about the Life of the *Præfekt*, which was to be taken away. *Caesar* having notice hereof, found his Affairs in a desperate Condition, and therefore Resolving to Fence for his Life and Security, as well as he could caused all the Souldiers to be drawn together, told them, that he and they ran, the same hazard; and that by means of *Montius*, who Accused them all as Rebels and Traitors, for no other reason, but because he had Committed to Custody the Wilful and peevish *Præfekt*, who would not know his Duty and Place; out of just Apprehension of the Danger that might arise from his Contumacious Humour. The Souldiers, who were not given much to Consider, but alwayes greedy of Trouble and Innovation, ran furiously to *Montius*, who lay near at hand, and seizing on him, a feeble, old Man, and sickly, bound him, and dragged him straight to the *Prætorium* of the *Præfekt*, whom, throwing headlong down the Stairs, they bound them both together with cords, and so drew them with haste through the streets,

Sect. 4. streets, till they had torn them Limb from Limb; which done, and having trampled upon their Carcasses, and mangled them as they listed, then they cast them into the River. Being sufficiently moved to this outrageous Act by *Gallus*, they were further Animated by two Turbulent Fellows; whereof one was *Luscus*, who had been suddenly Advanced to be *Curator* of the City, and another called *Sithenelaus*, the Head of the *Bajuli*, or *Vespillones*, who carried out the Dead (as is thought) or of the Porters, or such as carried Burthens; who often roared out, that they should make quick Dispatch, and perfect what they had begun; for which he was burnt alive not long after. But because *Montius*, as he was about to Expire, amongst his Tortures had blamed *Epigonius* and *Eusebius*, only mentioning these Names, and neither their Dignity nor Profession, there was wonderful Inquiry made, who these should be; and before the Matter should grow cold, *Epigonius* the Philosopher was fetcht from *Lycia*, and *Eusebius* Sirnamed *Pictacas*, an Eloquent Orator, out of *Mysia* from *Emissa*; whereas the *Quæstor* meant neither of them; but exclaimed against two *Tribunes* of the Fabricks or Forges (it seems of these Names,) who he had promised him a Supply of Arms, in case any such Disturbance should happen.

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18. At the same time *Apollinaris*, the Son-in-Law of *Domitian* the *Præfect*, and who had lately the Charge of *Cæsar's* Palace, having been sent about some Affairs into *Mesopotamia*, was narrowly searched, by the Souldiers there for Papers, which might manifest the great Design which *Gallus* now had in his Head. Having received News of what had hapned at *Antioch*, and suspecting his own Safety, he withdrew himself, through the lesser *Armenia* to *Constantinople*, but was fetcht back by those called *Protectors*, and committed to close Prison. Not long after a Discovery was made at *Tyre*, of an *Imperial* Robe, which by whose order made, or how it came there could not be known. Whereupon *Apollinaris* the Father, who then governed that Province, was laid hold of, and together with many others, burthened with most heavy, but idle Accusations, and haled to Custody. For now *Cæsar* did not at all conceal himself, nor pretended to any Excuse, but with the greatest Impudence ran through thick and thin, making no distinction between Right or Wrong, Just or Unjust, but what his Will and Lust procured. A mock-Court of Justice was erected, a mock-Judge, the *Magister Equitum*, and as mock-Notaries appointed, who carried Intelligence to *Gallus* of all that was said by the Parties. The first that was thus tried was *Epigonius* the Philosopher; who knowing little of the World, could not endure the Tortures; and without pleading any thing of Law, confessed he knew not what, and accused those as complices, who knew no more than himself of the Matter; but *Eusebius*, as one well versed in the Law, demanded that his Accuser should be produced to his Face; denied stoutly what was objected, and plainly called those Proceedings no course of Judgement, but of Robbery and Murder; for which Liberty as an insolent and audacious Slanderour he was, by *Cæsar's* command tortured to Death, together with his Fellow-Sufferer, calling to Heaven for Vengeance; yet altogether as unconcern'd as *Zeno* is said to have been; who in the midst of his Torments bit off his Tongue and spit it into the Face of the *Cyprian Tyrant*, if our Author do not mistake. As for the Robe that was found at *Tyre*; the Workmen there confessed that one *Maras* a *Deacon*, had written a Letter to procure the hastening of it; but he being apprehended chose rather a painful Death, than to confess any thing. Hereupon great Stir was made about it; and after that many upon slight Presumptions, had been made away: at length the *Apollinares*, both Father and Son, were sent into Banishment, as was pretended; but being come as far as *Cratera*, a Town of their own, twenty four Miles distant from *Antioch*, they had there their Thighes broken, and were mured according to Order. Yet with their Blood *Gallus* was not glutted; but like a greedy Lyon still raged about for more, the Effects whereof were so various, as *Ammianus* professes, that the Insisting upon Particulars would be too tedious for his Design.

Vide Annotationes Valesii in hunc locum.

Others plainly mured by his Order.

Constantius prepares against the Germans.

19. Thus groaned the *Eastern* Provinces under the tyrannical Government of *Gallus*; when, as we hinted, *Constantius* had removed from *Arles* to *Valentia*, undertaking an Expedition against the *Almans*. There staying for the Provisions of the Army, he was fully acquainted with his Nephews Demeanour, by *Herculanus*, a *Protector Domesticus*, Son of *Hermogenes*, who had been a *Magister Militum*, and was killed in a popular Tumult at *Constantinople*. His Vexation and solicitous Thoughts how to redress the Mischief, was diverted for some time, by the Discontents of his Army, which lying at *Cabillon*, was ready to Mutiny for Provisions. This brought *Rufinus*, now *Præfectus Prætorio* of these Parts,

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His Design
against them is
betrayed.He makes
Peace with
them.

into great peril of his Life, being required to give the Souldiers an account how their Neecessaries were so long kept from them; and this was done of purpose, it's thought, that he being the Uncle of *Gallus* by the Mother's side, might Miscarry, and Perish by their Rage; who, besides their usual Fierceness and Animosity against Men of High Place and Trust, were now Irritated by their want of Victuals: but those Concerned, so bestirred themselves, that *Eusebius* the *Præpositus Cubiculi*, being sent with Gold to *Cabillon*, therewith underhand Quieted those that were most Turbulent, and in capacity to do Mischief; and so the Army was kept in Peace, and the Life of the *Præfect* preserved; the Provisions arriving in Abundance, not long after. The Day following they marched, and having passed many Difficulties, besides those Hills that were all covered with Snow, they came at length to *Rauracum* on the Bank of the *Rhine*, where the *Almans* vigorously opposed them. It was thought fit to lay a Bridge over the River; but the Enemy so plied it with Darts and Arrows, that there was no Appearance for Workmen upon the Water, which cast the Emperour into a great Conflict what Course to take, when unexpectedly, one that knew the Place very well, offered himself a Guide, and for a good Reward to conduct them over, where it was Fordable: and this had by Night been effected, but that the *Almans*, had privately the Design discovered to them by some of their own Country-men, that served in eminent Places in the Army: the Suspicion lighting on *Latinus* the *Comes Domesticorum*, *Agilo* the *Tribunus Stabuli*, and *Scudilo*, who commanded the *Scutarii*: Men, who were in those Days accounted the Pillars of the Commonwealth. Yet notwithstanding the *Almans*, whether discouraged by their unlucky *Auspicia*, as our Author will have it, or for that they despaired of good Success by Resistance, sent some of their principal Officers or Nobility, to beg Pardon, and a Peace. Their Overtures were not unkindly received; but being long considered of and debated, were at length approved of by the Emperour, and his Council; yet to seem to do nothing without the Knowledge and Approbation of the Army, he resolved to make the Souldiers acquainted with what he little doubted but they would approve. Ascending the Tribunal, and attended by all his great Ministers, after a short Preamble suited to the Occasion, he told them, That if they would but consent, his Opinion was to grant the Requests of those, who sought Peace with so great Submissi- on. His Reasons were; first by a certain Treaty to prevent the Uncertainties of War; that of the *Almans*, instead of Enemies, they might have Assistants and Allies, as they had engaged. The next was, to prevent the Mischiefs, which from their frequent IncurSIONS, fell upon the neighbouring Provinces, and he added, that he only was not to be esteemed an Enemy conquered, who being overpowered by the Weight of Arms, or number of men, was slain in the Field; but much more he, who was subdued by an unbloody Victory, who voluntarily turned to Obedience out of a Sense, that neither Valour was wanting to the *Romans* against the rebelliously Contumacious, nor Lenity towards such as did seriously desire it. In conclusion, he was minded to use temperately the present Advantage, but left it to them wholly, to consider what was to be done, with this Assurance, that it was not any Sloth or Cowardize that engaged him to such Sentiments, but merely Principles of Modesty and Humanity. He had no sooner spoken, but the Multitude, prone enough to whatsoever he inclined, commended his Councils, and consented to the Peace, taking especial Notice, that little or no Good, but rather much Evil hapned by these frequent Expeditions; for when Wars were managed abroad, great Mischiefs fell out also at home, not usual in Governments united, and of moderate Extent, but in the Empire too frequent by Reason of it's too great Bulk, and the Variety if not usual Disagreement of it's Princes, who often were not virtuously inclin'd, even as at the present time.

20. The Peace being fully accorded, and all solemn Acts, relating thereunto performed, *Constantius* departed for *Milan*, where being now eased of other Cares, he made it his Business with his most intimate Councillors and that secretly, and by Night, to consult how to suppress, and ruine his Cousin. And it was agree'd to prevent any further Acts of Desperation and Pertinacy, that it should by good Words, and fair Promises be effected, under the Pretext of a publick Treaty; that so without any Difficulty or obstacle, being destitute of Assistance, he might be circumvented. These Councils were not approved by several Courtiers, and the *Eunuchs* that attended him, who bearing Malice to *Ursicinus*, the *Magister Equitum* in the East, contended that he was by no Means to be suffered to continue in those Provinces, if none were there left to over-aw him; who having Sons both in respect of their Persons, and Age very acceptable, as well as for their Military Skill,

The Eunuchs
plot against
Ursicinus.

Sect 4. Skill, to which they were continually Exercised and Trained up; they whispered, that this seem'd to look towards Usurpation, and that *Gallus*, of his own Nature, being Fierce and Cruel, was by some, on purpose set on, and Animated to these Extravagant Courses; that he being brought into Universal Ignominy and Hatred, the Empire might at length be Transferred upon the Sons of *Ursicinus*. These things thus insinuated, could not but exceedingly perplex *Constantius*, who never had his Ears shut to Arguments of this nature; yet he resolved on the best course, as it hapned, Commanding *Ursicinus*, with the Equipage and Honour belonging to his Degree, to come to Court, under pretence, that they might take Advice what was to be done in this Juncture of time, when the Arms of the *Parthian* Nations threatned the Safety of the Empire. And that there might be no suspicion of any Evil intended him, *Prosper*, a *Comes*, was sent to serve as his Deputy, till his Return; with which way of Procedure satisfied, and having the Advantage of the *Vehicula*, or *Cursus Publicus*, he hastened with great Journeys to *Milan*. To get *Cæsar* to Court; no less care was taken; and that he might neither Suspect any thing, his Wife *Constantina* received from the Emperour, her Brother, many kind Letters, wherein he expressed an earnest Desire to see her, which she was cunning enough to Suspect, and Apprehend the worst; but she hoped by the Intreaties and Insinuations of a Sister to charm him. They began then their Journey, but it so fell out, that she was suddenly snatcht away by a Fever, at a Place called *Cani Galliciani* in *Bithynia*, as she was on her way; which cast her Husband into a great Perplexity, not knowing what to do: For now she was gone, on whose Interest alone he could rely. And as for her Brother, considering his Nature, he could not but conclude, that he would be peremptory in his own Opinion; receive no Satisfaction, nor pardon what was past, (being sufficiently inclined to the Destruction of his Kindred) but, if he could compass it, having entrapped him by some Secret Wile, take him at the Disadvantage, and put him to Death. Being now driven to so great Necessities, and expecting nothing but the utmost Extremity, if he stood not sufficiently upon his Guard, he was desirous enough to take the Title of Emperour, if he had had any Encouragement; but he was deserted by those about him; partly for his bloody and fickle Humour, and especially, because they feared the Greatness of *Constantius*, which appeared abundantly able to crush and bring to nought all his Designs.

Gallus, having lost his Wife, is exceedingly perplex'd.

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21. Thus perplexed in his Mind, he received frequent Dispatches from the Emperour, requiring, nay, intreating him, to hasten to his Presence; for that the Empire, neither could, nor ought to be divided, but each of them to succour it, when in a Tottering Condition, as the Provinces of *Gall* at present were. And for an Example of no very old Date, he added, that *Dioclesian* and his Colleague were served by their *Cæsars*, even as by Apparitors, who continued not in any place, but moved to and fro upon occasion; and how in *Syria*, *Galerius*, though in Purple, as he was, walk'd well nigh a Mile before the Litter of the angry Emperour. Many Messengers were sent, and after all came *Scudilo*, the Tribune of the *Scutarii*, a crafty, insinuating Man, under the vizard of a downright, blunt Fellow; who, by Flattering, and serious Discourse mixed together, was alone able to prevail with him to take the Journey; for he made him partly believe, that his Brother and Cousin (as he termed him) most passionately desired to see him; That he had Meekness and Clemency enough to Remit what hitherto had been Committed through Imprudence; and that having made him his Companion in the Empire, he desired he should share also in the Toil thereof; the Northern Provinces now exceedingly requiring his Assistance. As the Apprehensions of such as are near to Destruction, are wont to be Darkned and Perverted, by these vain Flatteries he was brought into vain Hope; and departing from *Antioch*, went out of the Smoak into the Flame, (as our Author tells us the old Proverb was.) And coming to *Constantinople*, as if all things had been well and secure with him, Celebrated there the Horse-Games, and put the Garland upon one *Corax* a Chariot-driver, who had won the Prize. *Constantius* grew more suspicious when he heard of his Confidence, and was exceedingly provoked to destroy him. And that in his Journey he might not, out of Desperation, attempt any way to provide for his Security, caused all the Souldiers to be removed out of the Towns, through which he was to pass. Several Great Officers also, under pretence of other Business, were sent to Watch him. After a Tedious Journey, when he was come to *Hadrianople*, (a City standing on the Mountain *Hæmus*, formerly called *Uscuduma*) where he Refreshed himself for twelve dayes together; the *Theban* Legions which Quartered in the Neighbouring Parts, sent some to Advise him to stay, and offer-

Is persuaded by *Scudilo* to move towards the Emperour.

*Prosperus ire ten-
debat.
de fumo (ut
Proverbiū lo-
quitur vetus)
ad flammam.*

Seet. 4. ed him their utmost Assistance : but the Messengers were so narrowly watcht, that they could not get any opportunity to speak with him. A. D. 354.

H's Attendants
removed.

22. Now came Letters after Letters to hasten him away, and for his Journey ten Publick Carriages were provided; but all the Attendants of his Court were left behind, except some few that waited in his Chamber, and at his Table; and so he was hurried away, a miserable Spectacle to look on, Weeping, and bewailing his Rashness, that he should Betray himself in this manner into the Hands and Power of his Enemies; and otherwhiles Affrighted by the Terroure of his Conscience, and Dreams, arising from the Guilt he had contracted by the base Murder of *Domitian*, *Montius*, and many others; at length he arrived at *Petovio*, a Town of *Noricum*, where he had occasion fully to discover the Snares laid to Entrap him. For now, on a sudden, appeared to him one *Barbatio*, who had under him borne the Office of *Comes Domesticorum*, with *Apodemius*, one of the *Agentes in Rebus*, attended by a Company of such Souldiers as the Emperour had sufficiently obliged, and was well assured, that neither for Pity nor Reward, would they be drawn from Prosecuting such Orders as they received from him. Now without any Dissimulation of what was to be Acted, the House was beset with Armed Men; and *Barbatio* entring his Chamber, when it was scarcely light, took away his Royal Apparel, and put on him an ordinary and common Habit; yet, by frequent Oaths, assuring him, as from the Emperour, that now he had seen and felt the worst. But he bade him rise instantly, and all on a sudden clapping him into a close Litter, carried him

He is carried
into *Istria*;

away into *Istria*, to a Place near to *Pola*, where *Crispus*, the Son of *Constantius*, was reported to have been made away. There being close shut up and expecting nothing but Death; *Eusebius*, now the *Præpositus Cubiculi*, *Pendatius*, a Notary, and *Mellobandes*, a Tribune, by order of *Constantius*, came and examined him about those he had put to Death at *Antioch*. To this he answered with a pale and gasty Countenance, that most of them were so handled at the Instigation of his Wife *Constantina*. Upon Report of this Answer, as thinking it seems it reflected upon his Sister, and consequently on himself too much, *Constantius* fell into greater Indignation than ever, and placing all his Security in the Destruction of *Gallus*, resolved to put an end to his own Fears, and the others Life both together. And for this purpose sent away *Serenianus* (who having been accused of Treason, was odly acquitted) *Pentadius*, the Notary, and *Apodemius*, the *Agens in Rebus*, to put him to Death; which was executed upon him, as if he had been a Thief, by cutting off his Head, his Hands being bound together; after which, his Body lay a miserable Spectacle, which had lately been so terrible to Cities and Provinces. But to such an End came *Gallus Caesar*, in the Island *Flavona*, near to *Pola*, (as others write) in the twenty ninth year of his Age, and the fourth (begun) after his Promotion. He was born in *Tuscia*, at a place called *Massa Veternensis*, of *Constantius*, Brother to the Emperour *Constantine*, and *Galla*, the Sister of *Rufinus* and *Cerealis*, Persons, both of them of *Consular* Dignity, and who had borne also that of *Præfect*. A man comely enough, and well-proportion'd, of yellow Hair, and a thin Beard; but in Morals differing as much from his Brother *Julian* (of whom hereafter) as *Domitian*, the Son of *Vespasian*, came short of his Brother *Titus*, in the Opinion of *Ammianus*. He ended his Life after such a manner as he had deserved, and that by Command of his Cousin; though there were that wrote, how he, repenting of what he had ordered herein, sent other Messengers to stay the Execution; but *Eusebius* the Eunuch, his bitter Enemy, caused them to be stopped, till all was past, For this Treachery, if so it was, *Eusebius* paid dear afterwards, being put to Death by *Julian*, for having been so instrumental in his Destruction. And *Ammianus* observes, how other two, who under the Covert of Perjury and deep Dissimulation laid Snares to entrap him, came to untimely Ends. For *Scudilo* vomited up his Lungs, and died; and *Barbatio*, who accused him of more Crimes than he committed, being suspected to aspire to greater things than the Office of *Magister Peditum*, to which he had attained, was condemned, and sent out of the World, as we shall see.

Juxta Flavonam maritima Civitatem in ora Liburnie, non procul à Nefastio. unde Italia finem, alii Polam esse dicunt, alii Nefastium. Vale sius in Locum.

And made
away.

Philostorgius L. 4. c. 1. & vide Dissert. Gotb. Fredi.

Constantius
thereupon ex-
ceedingly ele-
vated.

23. The News of *Gallus* his Death was brought to *Constantius*, now lying at *Milan*, by *Apodemius*, who having been a notable Incendiary betwixt them, now cast the shoes of *Cæsar* (of Purple they were wont to be) down at his Feet; as if it had been the Spoiles of the *Parthian* King. The Emperour by his Flatterers was exceedingly elevated, who extolling his Power, and magnifying his Felicity; put him in mind, how he had brought to nothing the high Thoughts, and Ambition of two Princes, meaning *Gallus*, and *Veterania*; which had such Operation upon his unwary Phancy, that esteeming himself rather more than a Mortal, he assumed

Ammianus lib. 15.

Se&t. 4. **And** the Title of *Lord of the whole World* ; though all this while he pretended an Earnest Endeavour to equal the Morality of the very best Princes. But so open were his suspicious Ears to all Accusations, that his *Eunuchs*, and other fawning Courtiers, procured the Ruin of many Good Men ; and numbers were brought out of the *East* in Chains, to *Aquileia*, who were said to have been Instruments to *Gallus* his Cruelties and other Disorders. And thither were sent to sit upon them, as Judges, one *Arbora*, and *Eusebius*, lately mentioned, the *Præpositus Cubiculi*, both of them very bad bad Men ; both Unjust and Cruel ; who, without any sufficient Evidence, or Discrimination betwixt Innocence and Guilt, Sentenced them ; some, after Torture, to be sent into Banishment, others to serve in the Armies, in the meanest Capacity, and the rest to Death it self. After the slaughter of whom, they returned, as in Triumph, to their Prince. *Constantius* staid some time at *Milan*, for we find him by Subscription of his Edicts there, in the Months of *May* and *June*. Some other Laws he made before these, Dated from this Place, but where he then Resided, is not Expressed ; though probably in some part of *Italy*. The first of these, which are proper to our present Cognisance, is, the very first Law now Extant in the *Code*, concerning the *Agentes in Rebus*, of whom we have already spoken. In this Age, it was a Custom for those who were Members of Corporations, and obnoxious to the Services thereof, to get themselves Entred, as into other several sorts of Employments, and the Armies, so amongst them also, hereby to shun the Duties and Charges incumbent upon them, as we have already hinted. Now, to prevent this for the time to come, *Constantius*, by this Law (which was Part or Title of a larger Constitution) Defines ; That none, by his Service, amongst the *Agentes in Rebus*, should be freed or discharged from his Relation to Corporations, except he had served the term of Twenty years, which he ordains shall also be observed as a Rule, and Bind the *Scriniarii* of his Palace, the *Cancellarii*, *Largitionales*, and *Officiales* of the *Comes Rerum Privatarum*.

Many cruelly handled upon the account of *Gallus*.

Constantius publisheth an Edict in favour of Corporations.

*R. 7. adatio, si-
ve Gradus De-
junctio, que in-
ter Pones mili-
tates fuit.*

*cod. Th. lib. 6.
Tit. 27. Dat. 8.
Id. Mart. Con-
stantio Augusto
7. & Constan-
te Cesare Coss.
A. D. 354.*

24. By another Edict directed to *Orphitus*, the *Præfect* of *Rome*, and Dated seven dayes after the other, it appears ; That not only the Officers of Corporations, but even Senators, were wont to skulk and keep themselves out of the way, to shun those Charges and Duties which lay upon them. To prevent this, he now signifies, that he had formerly sent his Orders to *Hilariannus*, the *Præfectus Prætorio*, to Compell Senators to return to the City, that they might be constrained to Discharge those Duties that there lay upon them ; and that such of them as continued their Absence, should, according to the Laws made by his Father, be condemned to bring Fifty thousand *Modii* of Wheat into the Publick Granaries of *Rome*. Now what these Duties were, we have already touched, as, to make known to the Senate the worth of their Estates, that accordingly they might Contribute to the *Glebalis Collatio* ; as also to pay what was due toward the Charges of Publick Shows and Pastimes ; an usual Duty incumbent upon *Prætors*, to the Title of whom (and *Quæstors*) this Law is assigned in the *Code*. This Fine imposed upon Absence was very great : for at this time the ordinary rate of Wheat was an *Aureus*, or Golden *Solidus* for every ten *Modii* ; so that the whole amounted to five thousand *Solidi*. Indeed some years after, in the Reign of *Valentinian*, that Emperour by a Law (as *Suidas* writes) took Order, that no fewer than twelve *Modii* should be sold for a *Solidus* ; but then had he Enhaunced the Value of a *Solidus*, as we have already said. For whereas from *Constantine's*, till his Time, Eighty four of them went to the Pound of Gold ; he caused out of the Pound but Seventy two to be stamped. This was an heavy Fine for all sorts of Senators ; but by the Law of *Constantine* all were not liable to it ; but according to their Quality and Degree, Condemned as to the Quantity of Wheat. Probable it is, that this of Fifty thousand *Modii* was imposed upon *Prætors*, but a lesser upon *Quæstors* ; who, as appears by the first Law of this Title in the *Code*, were distinguished both from them and *Consuls* in these *Frumentary* Mulcts. But by this it is evident what great Charges the *Prætors* were at in Solemnizing these Publick Games and Pastimes, to which the People of *Rome* had been so accustomed, from the time that the Riches of the World flowing into that City, had, to please them, found such Issues as these ; that when the Reason ceased, they would not be satisfied that the Effects should cease : And Christianity it self could not, but by degrees, and after much time, wean them from those Excesses in Cruelty, and other parts of Immorality, which ordinarily accompanied these Divertisements.

Another to compell Senators to discharge their Duties in the City.

*L. 7. de Præ-
toribus &
Quæstoribus.
Dat. prius Id.
Mart. vide
Comment.*

25. These (and some other Laws) were made this year, though uncertain at what place ; but from *Milan* bore Date two others, which seem to have made up but

Sect. 4.

Another for
providing
Wines for his
Cellar.

but one Constitution. The first is, concerning the Furnishing of his Cellar with Wines; which, though it may appear a thing of no great Concernment, yet hath been Ennobled by the Disquisitions of such Learned Men, as have Disputed concerning the Suburbicarian Provinces. It ordains, *That the Wine, which was wont to be served in for the Use of his own Cellar, shall be provided by all the Possessors of Italy*, according to the Appointment of his Brother *Constans*; which, *that it may more easily be done*, saith he, *let that Quantity of Money be contributed by all our Italians, which the Moderation of Rufinus (to whom he gives the Attributes of Clarissimus and Illustis) the Præfatus Prætorio, our Parent and Friend, thought fit to be Allowed.* So runs the Law, which is directed to the Order or Body of the *Cæsenates*. As to which the Reader must know, that the Provinces were wont as we formerly hinted, to contribute several sorts of Provisions and Materials, termed in those Days, and by the Laws, *Species Annonariæ* and *Cellarienses*. The *Annonariæ* were (when strictly taken; for in a large sense *Annona* signifies all sorts) Wood, Straw, Fodder and other Necessaries; the *Cellarienses* were the *Esculenta*, & *Poculenta*, Meat and Drink; and not only Drink, as the Word now in English seems to denote. Now both the kinds were contributed for the Use of the Army, the Service of Expeditions, the Maintenance of the *Comites*, and other Governours of Provinces, and to the Prince his own use in his House, which last is that here intended. But the great Question is, what here should be meant by *Italy* or *Italians*; whether all that, which vulgarly went under that Name, or only some Part, or Portion of it. As to this we must know, that of old time, all *Italy* was Subject to a moderate Tax, or Contribution. But when the Empire was embroiled in manifold Wars, and divided betwixt *Dioclesian*, *Maximian*, *Constantius* and *Galerius*; *Maximian* having obtained *Africk* and *Italy* for his share, brought up a new sort of Tax or Tribute of Provisions, which he imposed upon part of *Italy* (and being then but small, afterwards grew very heavy and burthensome) upon that part, as appears from *Aurelius Victor*, where he lay most commonly with his Army. Now to find out what part of *Italy* this was, we must know where he had his usual Residence, which was at *Aquileia*, *Milan* and *Ravenna*, where usually his Successors, as *Constantine* the great, this present *Constantius*, *Valentinian*, and others afterwards made their ordinary Abode, when they came into these Quarters. The Countries adjoining to these Cities carried the Title of *Regiones Annonariæ*, or the Regions of Provisions, being these: *Tuscia*, *Picenum*, *Flaminia*, *Æmilia*, *Liguria*, *Venetia* and *Histria*; and these *Constantine* freed from all Extraordinary Services by an Edict published in their Behalf, in Consideration of those Supplies of Provisions with which they were taxed, to the Use of his own House. In like manner as *Africk*, because it afforded in those Days Provisions to *Rome*, enjoyed the same Immunity. Therefore it is to be observed, that the Word *Italy* is taken in four several Significations. First, for whole *Italy*, wherein *Rome* is also included, and the Suburbicarian Regions. Secondly, sometimes *Sicily*, *Sardinia* and *Corfica* come under the Name and Acceptation of *Italy*. In the third Place is to be understood by *Italy* what was not taken up by the City, and the Suburbicarian Regions, or an hundred Miles about. And in the last place, as in this Law, by *Italy* is meant *Italia Annonaria*, or the Provinces lately mentioned. Now the Law is directed to the Order or Body of the *Cæsenates*; most probably, because, in their Territory which lay near to *Ravenna*, in the Country called *Flaminia*, there being Abundance of the most excellent Wine, that these parts afforded; as formerly *Constans*, his Brother, so now *Constantius* himself would have his *Italians* (as he calls them) there to buy the Provision for his Cellar.

Takes Care
for supplying
the Body of
the Cæsenates.

26. But by the same Constitution (now divided in the Code into two Laws) he farther gratified this Corporation of *Cæsenæ*; which being at this time much emptied, by Reason that the *Curiales* thereof, under Pretence of other Employments and Privileges, withdrew themselves from the publick Service; he took Order for the calling back of three sorts of Persons to their former Duty and Employment. The first was of those, who by Letters had obtained *Honorary Dignities* without any Government; as those of *Ex Præfès*, and of the Title of *Perfectissimus*; yet so as they should enjoy the said Titles and Præeminences, provided they discharged the Offices in the Corporation, which about this time he ordered in an Edict concerning this Subject, directed to the Citizens of *Cartage*. The second sort of Persons whom he will have drawn back, is those, who pretending to the Dignity of *Senators*, could not shew any Letters Patents, granted from the Prince; for there were two ways whereby the Emperours conferred these Titular Honours, viz. one by Letters obtained for this Purpose, and another by word of Mouth. Now such as had obtained the Letters, he would have enjoy the

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354.

L. 6. de Anno-
ha & Tributis
Cod. Th. lib. II.
tit. I.

L. 43. de Decu-
rionibus. Dat.
11. Cal. Junii
Med.

L. 41. de Decu-
rionibus.

Sect. 4. the Immunity from Services in Corporations; though other Emperours would not " *A. D.*
 indulge them that favour, and the Law to this Particular was various and Ambu- *354.*
 latory. The third sort which he commands to be drawn back to their Employ-
 ment is, that of such as had got themselves admitted amongst the *Officiales*, whom "
 he will not have this new Relation to profit, if originally they belonged to the "
 Body of the *Cæsenates*. And yet, if we compare this Law with some others he
 made, this very year, concerning the same Subject, we shall find, that what he
 here saith of calling back the *Curiales* to their Charges in Corporations, must be ad-
 mitted with this Exception, provided they had not served as *Officiales* the space
 of five and twenty years, in which Case he forbids that they be forced back to
 such Employments. But as for them that attended on the Emperour in his Court,
 as these termed *Ministeriales*, who waited at Table, or in the Pantry, *Pages*, the
Silentiarii and *Decuriones* were to be excused, if they had served but fifteen Years.
 Nay the *Primipilares*, who served in the *Cursus Publicus* were excused, if thereon
 they had attended but ten years. And here it will not be amiss to observe other
 Privileges at this time granted to the *Officiales* by other Laws, which with these
 now mentioned, and that of the *Agentes in Rebus* seem to have made up one and
 the same Constitution. The first is, that they were permitted to adorne the Purple; *Vide L. l. 4.*
 which Ceremony heretofore we have touched. At first this was only granted to *5, 6. de Di-*
 the *Officiales* of the higher Dignities, as to those of the *Præfetti Prætorio* (who in *versis Officiis*
 this Age were properly called *Cohortales*, though this Name afterward, and that *et c.*
 of *Cohortalini* was also given to them that belonged to the Governours of Provin- *Comment.*
 ces) the *Præfetti* of the Cities, those of the *Magistri Equitum* and *Peditum*; but
 here *Constantius* limits it to those of them only who had done Service, and been
 present in all Expeditions. This Privilege was also given to the *Numerarii* of the
Præfetti Prætorio, after they had served up their three years; to the *Cornicularii*
 also, as well as the *Principales* of the Office, after their Term was out. These be-
 longed to the highest Dignities, or to those styled *Illustrious*; and to some others al-
 so it was indulged to adorne the Purple once a year; as to the Officials of the *Vicars*,
 and to other Officers of such Magistrates, as bore the Title of *Speſtabilis*, as *Pro-*
consuls, the *Comites Rei Militaris*, the *Præfectus Augustalis*; and some *Duces*, as
 those of *Scythia*, *Mæſia Prima*, *Mæſia Secunda*, and *Dacia*. The *Principals* of their
 Attendants were permitted to Adorne, at the going out of their Offices; but some
 did it with those that were of *Proconſular* Dignity, viz. they that belonged to the
Proconſul of *Achaia*, *Comes* of the *East*, the *Præfectus Augustalis*, the *Vicars*, and the
Comes of the *Ægyptian* Limit. Others only were permitted to do it amongst the
Protectors, as those that appertained to the *Duces* of *Scythia*, *Mæſia*, and *Dacia Ri-*
pensis. But this Honour was utterly denied to the *Officials*, though they were the
 Principal of those Governours of Provinces, who had but the style of *Clarissimi*:
 which Honour this Privilege accompanied amongst others, that being admitted once
 to it, they could not be forced away to any other Employment, as in Corpora-
 tions.

27. But to Prosecute the Acts of *Constantius* of another nature. While he em-
 ployed himself at *Milan* in making Laws, and in too strict Inquisition after Offend-
 ers, word was brought how the *Lentienſes*, a People that inhabited some Villages
 upon the Borders of *Germany*, made frequent Incurſions into the *Roman* Pale; and
 it ſo appearing, War thereupon was denounced against them. The Emperour in
 Person undertook the Expedition, and came into *Rætia*, and the Plains called
Campi Canini; where a Council of War being held, after a long Consultation it
 was Reſolved, that *Arbetio*, the *Magiſter Equitum*, with the Choicest part of the
 Army, ſhould, by the ſide of the Lake called *Lacus Brigantie*, through which
 the *Rhine* paſſed, march away, and fall upon them. *Arbetio* did as his Orders En-
 joynd, but the *Almans* having timely Notice of his coming, lay in wait for him,
 and ſo Diſtreſſed him, that his Men ran away, and moſt of them, by the Darkneſs
 of the Night, eſcaped, and got back to their Fellows; although a great number
 of them was loſt, and with them no fewer than ten *Tribunes*. With this Succeſs the
Almans exceedingly animated, renewed their Excurſions, and made frequent Sallies
 before it was light, well nigh as far as the *Roman* Camp. The *Scutarii*, provoked
 by their Insolence, made ſome Oppoſition, but finding themſelves too weak to
 withſtand their Violence, did what they could to Animate the whole Army to joyn
 with them; yet had the Memory of the late Deſeat made ſuch an Impreſſion on
 their Phancies, that only three *Tribunes* went in to their Relief, by name *Arintheus*,
Seniachus, and *Bappo*, who taking their Advantages as they could, without any ſet
 Form of Battel, did ſo great Execution, that they put the Enemy to a ſhameful
 Flight,

What Officials
 were permit-
 ted to adorne
 the Purple.

War denoun-
 ced againſt the
Lentienſes.

Who defeat
Arbetio.

Yet are they
 humbled.

Sect. 4. Flight, and made great Slaughter of them, while one hindred another from getting away; which the rest of the Army espying from the Camp, was then so hardy as to give the Chace, and kill those that were Conquered to their hands. This done, and great multitudes left dead upon the place, the Emperour returned Merrily, and as in Triumph, to *Milan*, and there took up his Winter-Quarters. A. D. 355.

and the Emperour returns to *Milan*.

A strange Device against *Sylvanus*.

28. There he had not made any long Continuance, when his Jealousie and Credulity brought upon him such an Inconvenience, as under it he might easily have Miscarried. At this time *Gall* was very much harassed by the Inroads of the Neighbouring Barbarous Nations, whom, wasting it at their Pleasure, with Fire and Sword, *Sylvanus*, then the *Magister Peditum*, opposed so Effectually, as to Restrain their Violence, being sent away upon this Service by *Arbetio*, who, for this year bore the *Consulship* with *Lollianus*; and that by the usual trick of Emulating Courtiers, who are wont to put their Rivals in favour, upon some ticklish and dangerous Employment. *Dynamius*, that oversaw the Emperour's Carriage-Beasts, had desired Commendatory Letters from *Sylvanus*, as his Intimate Acquaintance, which he Simply and Honestly, as not imagining the least Inconvenience would follow, Granted under his Hand. These Letters *Dynamius* kept, till he could find an opportunity to do him mischief; and at length, his Envy being further provok'd, when he saw him busily employ'd against the *Barbarians* in *Gall*, he took in the Advice and Assistance of *Lampadius*, *Præfectus Prætorio*, *Ensebins*, formerly *Comes Rei Privata*, who had the Sirname of *Mattiocopa*, and *Hidesius* the *Ex Magister Memoria*, then *Præfect*. They raze out all he had written in the Letters, only leaving the Subscription intire; and in the room thereof, devise an Exhortation to his Friends at Court, and others, amongst whom was one *Fuscus Albinus*, to Assist him in his Design, which was no less than to take the Purple, and Usurp. This Paper is produced, and *Dynamius* appointed to make Inquisition after the Treason. Such as were named in the Letter, and they could then come by, were taken into Custody, and Officers sent to Apprehend others that were in the Provinces. This making a great Noise, as well at the Court, as elsewhere; *Malarichus*, who then Commanded the Souldiers called *Gentiles*, and was appointed to go and fetch *Sylvanus*, Exclaimed sore against it; affirming, that those Persons were Innocent, and merely, by the Tricks and Inventions of their Enemies, Circumvented and brought into Danger. Yet notwithstanding, at the solicitation of *Arbetio*, was *Apodemius* sent with Orders to him, that he should come up; that *Apodemius*, who was an inveterate Enemy to all Good men, who coming into *Gall*, never sent him the Orders, nor let him know on what Errand he was sent; but Associating himself with the *Rationalis* of those Parts, began to Vex and Disturb the Friends and Clients of the *Magister Peditum*, as one already Proscribed, and to be put to Death. While the Arrival of *Sylvanus* was expected, and *Apodemius* thus behaved himself in *Gall*, *Dynamius*, to gain Credit to what he had already done, resolved to add one Cheat to another. He frames another Letter in the Name of *Sylvanus* and *Malarichus*, to the *Tribune* of the Fabrick at *Cremona*, whom, as Conscious to their Plot, it Advises to have all things in readiness, and that speedily. The Man was Exceedingly Disturbed at what he had read, not knowing what it should mean, nor remembring, that ever he had any Intercourse with these Persons concerning any Matter of Secrecie or Concernment: therefore he sent away the Letter to *Malarich*, beseeching him to tell him plainly what the meaning was; for he was, for his part, so Simple and Ignorant, that he could not understand it.

A. D. 355.
Arbetione &
Lolliano
Coss.

A notable Cheat discovered.

29. *Malarich* hereat as much concern'd, as one whose Safety was brought into so great Hazard, bewailed his own Condition, and that of *Sylvanus* his Countryman, and opened it to the *Franks*, of whom a great Company in those Days flourished in the Palace; and now more openly than before inveighed against them by whose subtil Devices they were so much endanger'd. The Emperour acquainted therewith, by Advice of those of his *Consistory*, and the Military Officers, gave Order for a strict Inquiry into the Matter; and the ordinary Judges evading the Business, *Florentius*, who then executed the Place of *Magister Officiorum*, more narrowly searched into it; and seriously viewing the Letter pretended to be writ by *Sylvanus*, discovered evidently some Remains of the Character, wherewith the Commendatory Epistle had been written, and a manifest Interpolation. Hereupon the Emperour abrogated the Authority of the *Præfect*, and subjected him to Examination; but by the Conspiracy of many together, whom he had made his Friends, he escaped as well as the rest, and *Dynamius* was honoured with the Dignity of *Corrector of Tuscia*. In the mean time *Sylvanus* being advertised by his Friends how his Affairs stood, considering how industrious his Enemy *Arbetio* was to

Sect. 4. to destroy him, and how ticklish and credulous the Humour of the Emperour was wont to be in such Cases, was very apprehensive, that he should be condemned Absent, and Unhear'd; and as one exceedingly perplexed, and not knowing what to do, had some thoughts of committing himself to the Fidelity of the *Barbarous Nations*; but *Laniogaisus*, a *Tribune*, telleth him that there was little Doubt, but the *Franks*, from whom he was descended, would betray him for a Reward, or else kill him; he then after some secret Consultations with his Officers, and great Promises made them, assumed the *Imperial Habit* (taking the Purple which was upon the Engines or Standards, as the Custom of Usurpers was, till they could provide themselves of Robes) as thereto forced for his own Preservation. The News thereof flies fast to *Milan*, and arrives there in the Evening, bringing such Astonishment and Fear to *Constantius*, that in the second Watch of the Night, all his Council was summoned to the *Consistory*; whither being come, every one's Courage and Tongue failed him; but at length, upon Inquiry, who should be sent against the Usurper, mention was made, yet coldly, of *Ursicinus*, as a man exceedingly skill'd in Military Affairs, though of late disgraced. Him they sent for by the *Magister of Admissions*, to do him the more Honour; and being entred the *Consistory*, the Purple was given him to kiss; and so he who not long before, through the malicious Insinuations of the Court-Backbiters, was termed the *Whirlpit* of the *East*, and said, by means of his Sons, to aime at no less than the Sovereignty; now was called a most prudent Captain, and spoken of with such Respect; as was due to a Fellow-Souldier of the great *Constantine*, as one alone fit to extinguish the Rebellion by Honest, though cunning and crafty Means. By his Endeavour they concluded, that *Sylvanus* would be brought to Ruin; or else he, whom they suspected as Angry still, and revengeful for the Injuries he had receiv'd, would miscarry in the Attempt. In both or either of these things, they thought they could not but be Gainers.

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355.

Sylvanus forced for his own Preservation to usurp.

Tunc Dux prudentissimus, & Constantini Magni fuerat Commilito.

Ursicinus sent against him,

30. Consultation then being had of hastening his Journey, he thought it convenient, before his Departure, to clear himself of those things formerly laid to his Charge, and began to refell the Accusations. But the Emperour interrupted him, saying; that now it was needless, and unseasonable, when such danger impended. A Debate was then held about the method wherewith *Sylvanus* should be attacked. And it was resolv'd; that, as if *Constantius* knew nothing of his assuming the Title, Letters should be writ to him to accept of *Ursicinus* for his Successor, and return to Court, with the Dignity and Place he formerly enjoyed. Then was he dispatched away, and took with him (for he had desired that he might have that Liberty) ten domestick *Proteectors*, amongst whom was *Animianus Marcellinus* himself, who wrote the History; and *Verinianus*, his Colleague. They used all the Speed they possibly could to prevent the Fame of their coming; but notwithstanding all their Diligence, the News flew before them to *Collem*, where they found a great Multitude, and many Forces met; and therefore they resolved by all fair Means possible to address themselves, and colour their Designs, by the specious Show of Obsequiousness; considering also how near they were to most certain Destruction. *Ursicinus* therefore taking this course, was kindly receiv'd, and kissed his Purple, as the manner was of saluting Emperours, for which he was Admitted into Inward Familiarity, to his Table, and into the most secret Consultation what was now to be done for their Joynt-Concernments. *Sylvanus* would ever and anon be complaining, with much Indignation, how most unworthy Persons being prefer'd to the *Consulship*, neither he nor *Ursicinus* should be thought worthy of any such Honour, but on the contrary, most unhand-somely Treated; the one by False Accusations and Surmises of Treason, and the other by being hurried away out of the *East*, and Exposed to the Crafts and subtil Practices of his Enemies. This Security and Confidence of his, gave good Encouragement to *Ursicinus* and his Companions; but the Army now wanting Pay, began to talk of passing the *Cottian Alps*, which Terrified, and forced them to venture upon the Execution of what they came about. They therefore tampered under hand, by fit Instruments, with those Companies called *Braccati*, and *Cornuti*; knowing them of an inconstant Humour, and easily to be moved by the Temptations of Gain and Advantage; and so thoroughly wrought with them, that early in the morning they set upon those that Guarded the Palace, and having killed them, drew *Sylvanus* out of a Chappel whither he had fled, and cut him in pieces. So perished a Captain of no mean Merits, whom the Craft of his Enemies, joyned with the Emperour's Credulity, had forced to this Usurpation, merely for his own Security; for though he knew he had sufficiently obliged *Constantius*, by delivering over the *Armatura* (of which he was *Tribune*) to him before the Battel of *Mursa*, and besides his

who entraps and procures him to be slain.

Sect. 4. own Deserts, could plead the Services of his Father (*Bonitus* by Name, and a *Franck* by Nation) performed to *Constantine* in his Wars against *Licinius*; yet he assured himself all these would not over-power the Natural Jealousie and Credulity of the Prince. *Ammianus* relates, that before his Death hapned in *Gall*, the People in the Great Cirque at *Rome*, uncertain upon what ground, or whence moved thereto, cried out, that *Sylvanus* was overthrown.

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355.

Constantius
makes bad Use
of the Deli-
verance.

31. *Sylvanus* thus having Perished, *Constantius*, as delivered from a Dangerous Rival, thence conceived extraordinary Joy, but made no good Use of so great a Deliverance: for he grew, as more Confident, so more Insolent and Proud; and, like to *Domitian*, as he hated all that Gallantly Demean'd themselves, he was so far from Commending what was done, that he pick'd a Quarrel about some Publick Money, that he pretended *Ursicinus* and his Followers intercepted in *Gall*, and sent Orders to have a strict inquiry made about it, whereas there was never any such matter. It was in a manner his whole Employment to brag of his own Power and Greatness; to which Vanity he was much incited by the egregious Flattery of those about him; and indeed he would not endure any, but such as were endued with that Faculty: for as a Prince is, so is his Council and Attendants. Bad Princes are usually served with such like as themselves, which please them best; neither are Wise Councillors chosen, but by those that have good Understanding. It cannot be, but the next thing we hear of *Constantius* is, that he is busily industrious to make Inquisition, and frame Processes against those of *Sylvanus* his Party, using the Diligence of *Paul*, that Flagitious Accuser and Incendiary. To begin the work, *Proculus*, the Domestick of *Sylvanus*, is put to the Rack; a man lean and sickly, who not able to endure the Torture, would accuse, right or wrong, and bring Numbers into Trouble, as all men feared; but it fell out quite contrary. For, being warned in a Dream, as he affirmed, that he should not name any Innocent Person, he endured the Pains, almost to Death, with wonderful Constancy, and without Accusing, or Mentioning one man; ever affirming, that what *Sylvanus* did was meerly out of Necessity, and not Ambition; which he evidently Demonstrated by this passage. That having paid his Army five dayes before he Assumed the Imperial Title, he then used the Name and Authority of *Constantius*, and Exhorted them all to be constant in their Fidelity to him; which he would not have done, if he had had then any such Design; but certainly have employ'd that Treasure for his own Advantage. This, as Matter of Fact, there were many that could Attest. Yet notwithstanding was he put to Death, and after him *Pence-nius*, as also *Asclepiodotus*, *Lutto*, and *Mandio*, of the Degree of *Comites*, with many others.

Domesticks
were the Pri-
vados of great
Officers.

And rages
against *Sylva-*
nus his
Friends.

Yet makes
some Just and
Gracious
Laws.

32. This, we must believe from our Grave Historian, was the Humour and Behaviour of *Constantius*; although, if from him, and others, we were not assured thereof, an Edict made by him about this very time, and Directed to the People, would induce us to think him rather of a contrary Disposition. For herein he Ordains, That no man whatsoever receive any prejudice from Libels, which neither with himself, he saith, nor with the Judges, have any place; and he gives this Reason, He is esteemed Innocent who wants an Accuser, though he want not an Enemy. By the Date of this Law it appears, that it was made at *Milan*, and after that he had there taken up his Winter-Quarters. *Gothofred* thinks it made in relation to what passed after the Death of *Gallus*, when the Emperours Ears were so open to the Insinuations and Flatteries of his Backbiting Courtiers. But from the late Date it bears of the last of *October*, I should rather judge it to have had respect to what hapned after the Death of *Sylvanus*; and that when he was wearied, if that was possible, with the many Accusations and Inquisitions. But as that learned man observes, he who was credulous otherwise enough, yet thought fit to put a stop to scandalous Libels; and he gives a very good Reason, viz. that he ought to be esteemed Innocent whom no man, with a free Intention, or by course of Law, doth accuse, but endeavours only to wound by invenom'd and secret Darts of Accusations. This was therefore an Act of Justice if duely observ'd. And another Edict of Grace he made this same year, and dated from the same Place, though three Moneths before the other; by which he gives free Liberty to the Provincials of *Africk*, freely to meet in Councils, to deliberate therein, make Decrees or Resolutions, and send up their Messengers, with their Petitions or Desires then and there resolv'd on, to the Prince. We have already spoken of such *Legati* or Messengers, as were wont to be sent up to Court from the Cities, or Corporations: But besides these, there were others employed by the Provinces on such Errands, which were agreed on, or approved in their Provincial Meetings or Assemblies.

Nemo prorsus de jamosis Libellis, qui neque apud me, neque in Judiciis ullum obtinent locum, Calumniam patiantur: nam & Innocens creditur, cui defuit Accusator, cum non defuerit Inimicus. Dat. Prid. Kal. Nov. Med. Arbitratione & Lolliano Cos. A. D. 355. Absist hęc Lex à Cod. Just. Invenit in Cod. Th. lib. 9. Tit. 34. & L. 6. ejusd. Tit. de Famosis Libellis (b) L. 1. de Legatis & Decretis &c. Dat. Kal. Aug. Mid. Cod. Th. lib. 12. Tit. 12. Absist hęc Lex à Cod. Justin. Vide Gothofredi Comment. & in Paratit.

These

Sect. 4. These Meetings which were termed *Concilia*, and consisted of the *Primates* of Cities, were either ordinary, or extraordinary. The ordinary were held once a year, the extraordinary upon the like Occasions, called together by the *Præfatus Prætorio*. If any Necessity urged, if they were oppressed, or any publick Grievance required their Complaint, they sent it up to the Emperour by their Messengers; of old, not without leave first obtained from the Magistrate of the Province. But it seems at this time, there were some that spake against these Messages, as useles, such as derogated from their Authority, or fearful they should therein be accused, as some way or other abusing their Power. Therefore *Constantius*, upon the Complaint of those concerned, gives them, by this Edict directed to *Taurus* the *Præfatus Prætorio*, full License and Authority to make known their Grievances: forbidding the Magistrates to Interpose or Hinder them. In like manner as this very same year, he also encourages Appeals to be made to him, which for fear of the Judges were forborne. In the Law concerning the Assemblies, he uses this Expression: *Let no Dictator hinder the Meetings; let none speak against the Councils.* By which word *Dictator* may either be meant Figuratively, such as imperiously interposed in this Case, or properly some Magistrates of certain Cities, who bore this Title. But to our History.

A. D.

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L. 2. de his qui per metum Judicis.

Nallus igitur obstat Continuis Dictator, Nemo Conciliis obloquatur.

He has Thoughts of promoting his Cousin *Julian*.

Notwithstanding the Opposition of his Courtiers, he declares him *Cæsar* to the Army.

33. At this time *Leontius* govern'd *Rome* with great Equity and Moderation, and by his extraordinary Courage and Prudence quieted the People, which was false into Sedition, for want of Wine. But in the mean time *Constantius*, at *Milan*, was much disquieted by continual Reports of the Disturbances that hapned in *Gall*, where the *Barbarous* Nations wasted the Country without Controle. He was very doubtful what in this Case to do; for he himself had no mind to stir out of *Italy* into any remote parts, and therefore must have some other, to repress the *Barbarians*, who should be furnished with sufficient Authority for so great a Command. He thought therefore of promoting *Julian*, the Brother of *Gallus*, to the Dignity of *Cæsar*; and when one difficulty pressed upon another, communicated his Design to those about him; protesting, that he alone was not able to undergo so weighty a Burthen, as that of the Empire. These Flatterers manifested a great Desire to draw him from his Purpose; affirming, that nothing was so difficult, but his most powerful Courage, and Conduct was able to manage it: and they suggested (perhaps their own Consciences provoking them) that he ought to beware of the Name of *Cæsar*, putting him in mind of what had hapned in Relation to *Gallus*. So obstinately they behaved themselves in the Matter, that they had diverted him, if the Empress had not concerned her self: and, whether out of an Aversion to Tedious Expeditions, or her own Native Prudence, fully perswaded her Husband to pursue his Intentions. *Julian* had lately been sent for out of *Achaia*, and wore the *Pallium* still, as a Philosopher, having all this while applied himself to Study. But now *Constantius*, having called the Army together, mounted the Tribunal, for this purpose made higher, and more Conspicuous than ordinary; and taking him by the hand, Addressed himself unto the Souldiers. In fair words he told them, That after the Overthrow of several Tyrants and U'rpers, that had set up for themselves, the *Barbarous* Nations had broken the Peace, and Invaded *Gall*; and this begat their Confidence, and encouraged them so to do, that he many times was necessarily employed in other remote Parts of the Empire. That if they would approve thereof (for the *Roman* Emperours were wont so far to condescend in Matters of greatest Moment, as to make their Souldiers their Counsellors) he had found out a way for repressing their Insolence, and preserving the Borders; which was to dignifie with the Title and Authority of *Cæsar*, his Cousin *Julian* a young man, as they knew, notable for his Modesty; and one who gave hope, that he would prove industrious. As he was going on, the Assembly interrupted him, telling him, it was the Will of *God*, that so it should be. To which he answer'd, that in Compliance with his and their Desires, he would give him the Robe, and therewith put the Purple upon him, and declared him *Cæsar*. Then, with a grave and sober Countenance, giving him the Title of *Most Loving Brother*, he told him, he esteemed it the greatest part of his Glory, that he had Opportunity to confer this Dignity, in a manner hereditary, to so near a Relation. That now he was to be Assistant, and Partaker of his Labours and Perils, and he committed to him the Care and Protection of *Gall*; wherein, if there should be need of Fighting, he must himself be present in the Front of the Battel; by his Example and Advice to encourage the ordinary Souldiers, and make his own Eyes the Discoverers of the Merits, or Demerits, of his Men. He added, That he being himself Courageous, was now to undertake the Command of a

Stout

Sect. 4. Stout and Valiant Army. That he should find him ever Loving, and Assistant " A. D. 356.
 to him; and he hoped by God's Assistance, they should Govern the Roman " 356.
 World with equal Piety and Moderation. What he had said and done, the Souldiers Approved by their usual Sign, which was, to make a noise with their Targets upon their Knees; whereas they were wont, on the contrary, to testify their Anger, or Sorrow, by beating their Shields with their Lances; and few there were but exceedingly Rejoyced; and (as our Author tells us) Admired the Person of the New Cæsar, as presaging Wonderful Things to be Atchieved by him. This passed at *Milan*, on the sixth of *November*, in the Consulship of *Arbetio* and *Lollianus*, as *Ammianus* expressly writes.

Julian marries
 Helena, the Sister of Constantius, and goes into Gall.

34. *Julian*, a few days after, received in Marriage *Helena*, the Sister of *Constantius*; and, all things prepared for his Journey, set forward for *Gall* on the first of *December*, with a small Train, which *Zosimus* writes, to have consisted but of three hundred and sixty Persons, having been brought on his way by the Emperour, as far as a Place (thought to be *Duriss*) famous for two Pillars Erected betwixt *Laumellum* and *Ticinum*, or *Pavia*. He came to *Taurinum* (or *Trent*) where he first received the sad News of *Collein*, then a Famous City in the Second *Germany*, its being taken and razed by the *Barbarians*; which the Emperour had notice of before, but concealed it, lest he should be Discouraged. With this he was much Dismayed, as Ominous to him at his first Undertaking, and was often heard to Complain, and say, that he got no more by his Preferment, than to Perish with greater Turmoil and Business. Being arriv'd at *Vienna*, he was received there with great Applause by all sorts of People, who Rejoyced, as upon the Rising of some Lucky Planet, and at the sight of their Deliverer. And an old blind Woman, asking who it was that made his Entrance, upon Answer that it was *Julian*, Replied, and cryed out, that He should Restore the Temples of the Gods. Having here entred his first Consulship, which the Emperour bore (together with him) now the eighth time, and passed over the Winter in Anxious Cares and Consultations, he received Intelligence, that *Augustodunum* was Besieged by the *Barbarians*; a City of great Antiquity, and Large; but so Antient, that with Age the Walls were well nigh Consumed. To its Succour he moved, and Arrived there on the Twenty fourth of *June*, where he found not the Enemy, who, it seems, durst not abide his Coming; and therefore he Resolved to pursue him; and for that purpose taking only the *Cataphracti*, and *Balistarii* along with him, though but a slender Guard for his Person, Marched with speed to *Autosidorum*; where having made a short stay for Refreshing himself and his Army, he hastened away to the *Tricassini*, and there so entertain'd those Rovers, who in great multitudes Engaged him, that some he Took, more he Kill'd, and the rest he put to Flight; though far he could not pursue them, by reason of the heavy Armour which his Souldiers wore. After this Action he departed to *Rheims*, and ordered the Army to be in a readiness, and stay for him; *Marcellus*, the Successor of *Ursicinus*, then Commanding, though *Ursicinus* himself was Ordered also to stay in those Parts till the end of the Expedition. Thence, after Serious Deliberation, did he march against the *Almans*; who, taking the Advantage of a wet and dark Night, fell upon his Rear, through places which they themselves alone knew; and had cut off two *Legions*, if upon a sudden noise made, the best of the Army had not gone in to the Rescue. Perceiving hence, that there was no proceeding without being endangered every day, by reason of their Knowledge of the Countrey, and his own Ignorance; he resolved to make himself Master of the Cities upon the Borders, wherein he might lye securely, and thence make Excursions, as he saw convenient.

A. D. 356.
 Constantio
 Aug. 8. &
 Juliano Cæ-
 sare Coss.

Ammian. Mar-
 cel. lib. 16.

Puts to flight
 the *Almans*.

Seizes on Places lying upon the Borders of *Germany*.

35. After a prosperous Fight against the *Germans*, who endeavoured to hinder what he had Designed; he got possession of *Brotomagum*, and thence made for *Collein* (*Agrippina*, our Author calls it;) which had been Razed before his coming into *Gall*, in the Country adjoining to which, there was no City to be seen, nor so much as a Castle; only at the Place called *Confluents*, where the *Moselle* and the *Rhine* do meet, there was a Village, by name *Rigodulum*, and one Tower or Fort, near to *Collein*; for it's reported, that to give Disturbance to *Magnentius*, the Emperour *Constantius* procured the *Barbarians* to break into the Roman Pale, where they destroyed above forty Towns. In *Colein* he abode so long, till he had made a Peace with the Kings of the *Francks* (the Fury of whom now Abated;) and received of them a strong Town. With which Prosperous beginnings Encouraged, he Resolved to take up his Winter-Quarters about *Triers*. Here he found himself Involv'd in various Difficulties. The Garrison-Souldiers had forsaken their Posts, and

Sect. 4. and were to be brought back to the Places most Exposed. The Neighbouring Nations had Conspir'd together against the Romans; In their Councils they were to be Disunited, if possible, and the Army wanted Provisions, which in the chiefst place was to be considered. But, as Cares for the future are wont to be forgotten, when present Necessities fall upon us; he had Diversion given him by the Enemy; who, having learned from some Fugitives, that those of the Army, called *Scutarii*, were absent; and that the *Gentiles* were Dispersed through the Country for convenience of Quarter, laid Siege to *Senona*, where he now lay. He himself, with his Officers, watched Day and Night upon the Walls, having a great desire to make a Sally: but his Numbers being too scant for such an Attempt, he yet Manfully held it out, till the Besiegers, being tired, and having no hope to prevail, went their Ways. All this while *Marcellus*, the *Magister Equitum*, quartered not far off, neither was he ignorant what Danger *Caesar* was in; yet never stirred to his Relief, notwithstanding his Duty had been to succour and preserve the Place, though *Julian* had not been in it. But he thus delivered, applies his Care to the Refreshment of his men, though the Country, so harassed with the Wars, afforded little Advantage. However by his Industry he procur'd Supplies elsewhere; and as to himself, though his Allowance was good from the Emperour, he was contented with the Diet of an ordinary Souldier; and so lived as if he had governed himself, according to the sumptuary Laws, or after the Rules prescribed by the *Rhetra* of *Lycurgus*, for so our Author writes; who further adds, that as *Alexander* of old, so he now appointed the very Nights, not only to sleep and rest; but to two or

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356.

Ammianus the
Historian his
extraordinary
Commendati-
ons of him.

ther Employments, of publick Business, and his private Studies; yet, he more strenuously than the other: for *Alexander* held in his Hand a Silver Ball out of the Bed, under which was set a Basen of Brass, that when, through Sleep, he let it fall, it might make a Noise, and thereby admonish him of his Drowsiness. But *Julian* had no need of any such Monitor, waking as often as he pleased himself, and was wont to rise at Midnight; not out of any soft or sumptuous Bed, but his mean and ordinary Couch, secretly to make his Prayers to *Mercury*, whom he imagined to be, according to his, and our Historian's Divinity, the more quick and vigorous Sense of the World, and was wont to excite the Motions of the minds of men. This in so great Defects of things, he endeavoured to search out and discover; which Disquisition, both difficult and serious (you must know) being finished, he then applied himself to the whetting of his Wit. And incredible it is with what and how great Ardour, making Inquiry after the high Knowledge of the greatest things, and seeking out, as it were, Food for his Mind, still climbing up to higher Matters in his Disputations, he ran through all the parts of Philosophy.

36. These Matters (for we shall still follow *Ammianus*) he effectually and fully furnished himself with, and yet did he not despise those of lower Concernment. For he was reasonably well skill'd in Rhetorick and Poetry, as his handsom, though grave Orations and Epistles manifested; to which was added a manifold Knowledge of *Roman* History, as well as that of other Nations, and a sufficient Readiness in the *Latin* Tongue. If that therefore be true, which several Writers relate (thus he proceedeth) of King *Cyrus*, of *Simonides*, the *Lyrick* Poet, of *Hippias* the *Elean*, (the most Acute of all *Sophists*) their having so great Memories by Virtue of some small Quantities of Potions and Receipts which they used; it is to be believed, that he now Adulter, drank off the whole Barrel of Memory, if any where it could be found. And these are the Evidences by Night of his Modesty and Vertues. As for his handsom and Facetious Speeches, and how he behaved himself, either before his Advancement, or in Battles, or with what Magnanimity and Freedom he reformed Matters in the State; they shall all (he tells us) in their proper Places be demonstrated. When he, being a Philosopher, was, as a Prince, constrained to exercise and train his Souldiers, he would often make mention of *Plato*; and add, that this was a Pack, or Fardel, fit for an Oxe to bear, and not a Burthen for his Shoulders. The *Agentes in Rebus*, being brought into the *Consistory* to receive their Gold, one of them amongst the rest, did not as they were wont, receive it in his Coat, but took it away in both his hands, at the sight of which he used this Expression; The *Agentes in Rebus* are skilful in taking, not in receiving, alluding to that rapacious Humour of these Officers, which heretofore we have observed. Having condemned a man to Banishment, who had ravished some Virgins; when he heard it was taken ill, that he had not put him to Death, he said; hitherto the Laws may blame Clemency; but it becomes a Prince of a most mild Disposition, to excell the Laws. As he was on his March, he referred the Complaints of Petitioners

*Credendum est
hunc etiam tum
adultum totum
Memorie Doli-
um, si usquam
reperiri potuit,
exhaustum.*

*Rapere, non ac-
cipere sciunt
Agentes in Re-
bus.*

oners

Sect. 4. oners to the Governours of the Provinces; and at his return in Person Examined each particular, and Mitigated, by his Genuine Mildness, the Rigor of the Punishments. Not to speak of his Victories, whereby he often overthrew the *Barbarians*, how further he Relieved *Gall*, almost utterly spent by the Misery and Poverty under which it Groaned; hence appears, that when he first entred that Province, he found an Exaction for every *Caput* *, or *Capitum* (that is, such a quantity of Land) of twenty five *Aurei* by way of Tribute; but at his Departure he had reduced it to Seven, for which the Inhabitants Rejoyced in him, as a Bright, Irradiant Sun risen upon them, after so gross and palpable Fogs of Darkness. And this he constantly observ'd, till his Death; To grant no Indulgences or Pardons relating to Payments of Tribute, unto any particular men; knowing well, that by so doing he should add to the Wealth of those that were Rich, whereas the poorer fort were at the very beginning compelled to pay all their Dues. But while he thus Exercised himself in such moderate Methods of Government, (saith he) as ought to be Instituted by Good Princes; the *Barbarians* renewed and increased their Fury, Roving up and down the Country, and like to Starved and Ravenous Beasts seized upon all things that Gratified their Appetite. And so went Matters this year in *Gall*, Doubtfully at first, but the Conclusion was prosperous (as saith *Ammianus*) notwithstanding he concludes his Narration with a Furious Depopulation of the Province.

The *Almans* again furiously Depopulate the Province.

Arbetio suspected at Court.

Marcellus accused *Julian*.

His objections refuted by *Eutherius*.

37. In the mean time *Arbetio* was looked on with Envy and Jealousie in the Emperour's Court, as having no lower thoughts than Aiming at the Sovereignty; to which the Splendor of his Living did contribute. There was one *Verissimus*, of the Degree of *Comes*, who openly stuck not to say, that having from an ordinary, or Common Souldier, risen to so great Command, he therewith contented not himself, but Aspired after the very Empire. But he was especially Persecuted by *Dorus*, who had been Physician to the *Scutarii* (for every *Legion* and *Schola* had its Physitian) and under *Magnentius* Executing the Place of the *Centurio Rerum nitentium*, at *Rome*, had formerly Accused *Adelphius*, *Præfect* of the City, as Guilty of the same Crime of Usurpation Devised. But now, when the Matter was Inquired into, and an Expectation was raised, that the Fact should be proved; both the Persons, who, as Conscious, had been committed to Prison, were Discharged; and that by Approbation of the Privy-Councillors, or those of the *Consistory*, as the Report went, *Dorus* vanished, and *Verissimus* held his peace, the Curtain of the Play being as it were let fall. Much about the same time, *Constantius*, being given to understand by such as came out of *Gall*, how *Marcellus* had omitted to Relieve *Julian*, put him out of Commission, and confined him to his own House; who thereupon conceiving himself highly Injur'd, thought to be Reveng'd upon *Cæsar*, by whispering into the Credulous Ears of the Emperour such things as would make him Jealous of him to the utmost Extremity. *Julian* was sufficiently aware hereof, knowing well the Malice of the one, and the Supine Credulity of the other; and therefore, upon the Departure of *Marcellus*, sent away *Eutherius*, his *Præpositus Cubiculi*, to Answer to such things as should be Objected against him. *Marcellus*, not aware hercof, hastened to *Milan*, and in a great Chafe and Disorder (being an Idle Tatler, and almost a Mad man) when he was admitted into *Consistory*, Accused *Julian*, as a forward Designer, and one who was preparing and shaping himself Wings wherewith to soar to an Higher Fortune. He using all liberty in Discourse of this Nature; *Eutherius*, upon his Desire, was admitted, and having leave to speak, Modestly and Mildly affirmed, that by Lies and Fictions he had concealed the Truth; told the Story how *Marcellus* having failed him, *Julian*, by his own Industry and Valour had removed the *Barbarians* from the Siege; and he offered to engage his Neck, that he would remain a Faithful Servant to him that had been the Author of his Promotion. *Ammianus* spends many words in Commendation of this *Eutherius*, and finds none of the *Eunuchs* amongst the Antients (for an *Eunuch* he was) worthy to be compared to him. Some kind of Resemblance indeed, but not proportionable, he owns in *Menophilus*, who served *Mithridates*, the Famous King of *Pontus*. This King, having committed to him the Custody of his Daughter, after he was Defeated by *Pompey*, and the Place where the Lady was kept being Besieged by *Manlius Priscus*; when *Menophilus* perceived the Garrison-Souldiers talked of Yielding; he, fearing she should suffer Violence or Indignity, killed her first, and then sheathed his bloody Sword in his own Bowels.

38. But so *Julian* Evaded the malicious Accusations of his Adversary; but others found far greater difficulty to get off. For if any Person consulted any such as were accounted skilful (in such profound Mysteries) about the Squeeking of a Rat,

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* *Caput ibi non accipiendum est pro Capitis personæ Tributo, sed pro Jugo vel possessione; unde Capitatio et Jugatio adeo frequentes in l. l. ut mirum sit talesque hinc adeo graviter errasse, & de Plebeis tam multa dixisse, quasi Pauperes pro se, exoribus, & Libris Adultis (ungulis scilicet) autos viginti quinque solvere potuerint. Vide de hac re Com. Gothof. in l. 15. de Annona & Tributis Cod. Th. lib. 11. tit. 1.*

sect. 4. Rat, or the Sight of a Weefel, or any such like Sign of ill Luck, or took an Inchantment from any old Woman to prevent so impending a Mischief, (which saith our Author the Authority of Physick doth admit) he was beyond Expectation, Apprehended, Arraigned, Sentenced, and Capitally punished. There was one *Dannus*, betwixt whom and his Wife a Quarrel hapning, the accused him of some slight Matters, to which *Rufinus*, the Principal of the Apparitors belonging to the *Præfectus Prætorio* of *Africk*, and who lived in Adultery with the Woman, perswaded her to add; that he was guilty of Treason, and namely had stolen the Purple Covering from off the Sepulchre of *Dioclesian*, and some few knowing of it, kept it hid for some dangerous Design. This Fellow himself came to Court, and framed a Story, which would have brought many to certain Destruction, if it had not found Honest and Resolute Judges. The matter was committed to be examined and heard, to *Mavortius*, then *Præfectus Prætorio*, a man of the greatest Constancy imaginable; with whom was joyned *Ursulus* the *Comes Largitionum*, a Person of commendable Severity. The Crime was aggravated, as suited with the Humour of the Times, but by Torture of many Persons nothing could be discovered, and the Judges were very doubtful what to determine; when the mans Wife, urged by her Conscience, and the Necessity wherein her Husband and others were involved, confessed *Rufinus* to be the Contriver of the whole Device, and concealed not how Familiar they had been together. After Mature Deliberation had hereupon, they were both Sentenced, and put to Death. At which *Constantius* was very angry, and in a menacing manner sent Command to *Ursulus* to come up to Court; as having executed him, who had been the Preserver of his Person. He was advised, not to commit himself to so great Hazard; but up he came with great Courage and Resolution; and being call'd into the *Consistory*, with open Heart and Mouth, both declared all that had passed, and therewith so daunted his Adversaries that they held their Peace; and so he free'd both himself and the *Præfect* from a manifest and imminent Danger. Others there were, who were not so happy as to evade the snares laid for them, but miscarried, through the great Jealousie of *Constantius*, which his Ministers fomented out of a greedy Desire of Wealth, wherewith all sorts of men at this time were wonderfully inflamed, without any Distinction of Right or Wrong, Justice, or Injustice. Amongst those of the ordinary Magistrates there was *Rufinus*, the first *Præfectus Prætorio*; of Military men *Arbetio* the *Magister Equitum*, and *Ensebius*, the *Præpositus Cubiculi*, besides the *Quæstor*; and in the City, the *Anitii*, of whom the Posterity imitating their Grandfathers could never be contented with an Estate far greater.

39. But we hear too much of *Constantius* his jealous and credulous Humour, and the sad Effects thereof; let us divert our thoughts by a view of what else he acted this year, in Reference to Civil Matters; for as to War, he himself in Person was not now Engaged. Lying still at *Milan*, in the beginning of the year, he took Notice of a great Abuse committed in the Coin, by melting it down, and selling of it, as other Merchandize; through which Practices so great Detriment came to the Publick, that by an Edict he forbids them both, upon Pain of Death; and that for this Reason, because the End and Design of Money is to be the Price of Things, and not like Wares to be bought and sold. For Prevention hereof, he not only inflicts Capital Punishment upon the Offenders, but provides against the Crime several other ways prescribed in the same Law. He appoints Searchers in the Ports, Havens and Highwayes, for Discovery of such Money to be Transported by any Merchant, Travellor, or Navigator. In the next Place he limits Merchants to a Sum, which they ought not to exceed in their Voyages; viz. a thousand *Folles*, which is not to be understood of the lesser sort of *Folles* already spoken of, but the greater, whereof in the Age of *Constantine*, an hundred were of the value of a *Solidus*; so that for their Expense in their Journeys, he will not allow them above ten *Solidi*. A third way he prescribes, that the very Merchants Ships of Burthen, at their Return, be searched, and that those concerned produce all their Coin, for Discovery of any such prohibited Money. To these he adds, that if any Money forbidden or not current, be found with any Merchant, both it, and his whole Estate besides shall be confiscated; charging all, that no Merchants, either buy or sell Money like as other Commodities or Merchandize.

40. About the same time he sent a (a) Constitution, or (as the Word is in the Latin of those Times) an Oration to the *Senate*, divided in the Code into three several Laws, concerning *Prætors*, the Nomination of them, and other Matters relating to these Officers. It had been a Custom for the Judges in *Rome* to assume to themselves the No-

L. 1. Siquis pecunias constaverit &c. Cod. Th. lib. 9. tit. 22. Accept. 8. Id. Mart. Constantinop. Constantio Aug. 8. & Juliano Cæsare Coss. A. D. 356. Abest hæc Lex à Cod. Justin.

(a) L. 8, 9, 10. de Prætoribus. Dat. 3. Id. A. prii. Med. Nominatione designanda est à Designatione. Nominatione erat, cum ad certum Prætoris genus quis antea designatus Prætor nominabatur. Vide Gothof. Comment.

Sect. 4.
Regulates the
Election of
Prætors.

mination of some sorts of *Prætors*, and this was also sometimes practised by the *Censuales*. But in the first place, *Constantinus* Abrogates all such Customs, and will have these Nominations only made by the *Senate*. And, whereas, before the time of *Augustus*, at the making of a *Senatusconsultum*, no smaller number of *Senators* was to be present than Forty, and this being lessened by that Prince, was afterward various, either according to the Humour of the Times, or the Weight of the Matter therein Determined; in this Business of the Nomination of *Prætors*, he will have no fewer present than Fifty. In the third place (by the third Law) he Appoints the Time for this Nomination to be on his own Birth-day, or on the *Ides* (the thirteenth) of *August*, and the dayes following, if that alone be not sufficient; it being a Custom for the Birth-dayes of Princes to be Assigned to the beginning of other Offices also. Next after this, he Declares, he will have none to Purchase of the Senate by Money or Reward, Immunity from the Service and Charge of the *Prætorship*, but only such obtain that Privilege, whose Merits shall deserve that they be taken into the number of *Adlecti* by the Emperour himself; by which *Adlecti*, we have already observ'd, that those are to be meant, who, having never discharged an Office, were, by the Favour of the Prince, or his Letters, Admitted into the Dignity and Honour of that Employment. He Declares also, that such as by their Merits had deserved to be *Præfetti Prætorio*, or of other Dignity, shall enjoy this Immunity. And lastly, he Ordains, that none shall Discharge the Office of *Prætor* by a Substitute, viz. his Son, Grand-son, or any other, but in his own Person; this being the reason, as *Gothofred* concludes, because this Son, or Grand-son, if he lived, being a Senator, was to be *Prætor* himself; and so having Discharged the Office both for himself, his Father, and Grand-father, his Patrimony might be too much Exhausted. We shall only further observe, that this Oration is said to be read in the Senate by *Præxius* the *Proconsul*, on the Ninth day, or Seventh of the *Ides* of *May*, whereas by the Rule of *Augustus*, the *Senate* could only be held on the *Calends*, and the *Ides* themselves.

41. The Year following, into which fell the one and twentieth of his Reign, and the CCCLVII of our Lord, according to vulgar Computation, he himself the Ninth, and *Julian Cesar* the second time bearing the Title of *Consul*; he continued still at *Milan*, till about the end of *April*. And at this time however his Jealousie might prevail with him against the Lives and Fortunes of Innocent Persons; yet he published some Edicts, which made well for the Ease of his Subjects. It was a thing sometimes practised by the Magistrates of this Age, in certain Cases, to lay extraordinary Taxes or Impositions upon the People Subject to their Jurisdictions; and namely, they that carried the Title of *Speſtabilis*, as the *Proconsuls* and *Vicars*; but they especially, who in these Dayes took too much upon them in other Matters, as that of Appeals. This bringing, both great Damage and Inconvenience to the *Provincials*, and thence as great Scandal to the Government; by two several Laws he obviates the Practice; whereof the first is directed to the People to give them therein Satisfaction, and the other to *Taurus*, the *Præfectus Prætorio* of *Italy*, to whom belonged, as the Care and Oversight of *Tributes*, so an Inspection over the Governours of *Provinces*, and also the Levying of extraordinary Taxes or Impositions. By these Laws he prohibits any ordinary Judge or Magistrate of the Dignity of *Speſtabilis*, or *Clarissimus*, to lay any extraordinary Charge upon the Subject, under Pain of paying himself the Double of the Sum, and his *Officium*, or Officers, twice as much as the Double, or fourfold. But thinking it not reasonable to force the same Inhibition upon the *Præfetti Prætorio*, he makes a Distinction betwixt sudden and urgent Necessities, and such as were not at hand, but might be foreseen, and at Distance. In the latter Case, when there was Leisure enough, the *Præfect* ought to impose nothing, but at the time to certify the Prince, that according to the Custom, such Tax was to be imposed; that he might Consider of his own Occasions, and Rate the *Provinces* accordingly. But when there was urgent and inexcusable Necessity, so as the publick Safety would not dispense with Delay, then might the *Præfectus Prætorio* Impose an extraordinary Tax, (not Extraordinary as to the Quantity of the Sum is to be meant, but in Opposition to the ordinary or Common *Tributes*) and this done, he was therewith to acquaint the Emperour, that by his Authority the thing might be confirmed, or receive Alteration before the Gathering of it. Other succeeding Princes, as we may see hereafter, denied this Power to the *Præfets*; the ordinary, and extraordinary Indiction of *Tributes*, both alike, belonging to the Sovereign Authority.

But

A. D.
356.

A. D. 357
Constantino
A. 9. & j
liano Cæsa
2 Coss.

L. 7. & 8.
Extraordin.
is & c. Cod.
lib. 11. Tit.
Dat. 4. Nov.
April. & 1
Kal. April.
Constantino
& Juliano
sare 2 Coss.
A. D. 357.

Lessens the
Power of the
Governours in
raising Money.

ca. 4. But here *Constantius* Grants it with two Restrictions. The one in case only of Insuperable Necessity, which admits of no Delay; and the other, so as it be Approved and Confirmed by the Prince, who before the full Exaction or Collection might be Certified of the Occasion, and both of that, and the Sum Imposed, send his Approbation, or Dislike. A. D. 357.

42. Some fifteen dayes after, he Published another Edict to the same *Taurus*, concerning the Management of the *Cursus Publicus*, Determining of what sort of Men the *Curiosi*, or those that had the Charge of it, should be Chosen; how many in number, and what their Duty should be. Hitherto out of the *Officium*, or Attendance of the *Præfæti Prætorio*, and oftentimes from amongst those of their *Vicars* Persons were wont often to be Deputed to this Charge, nay, from amongst the *Memoriales*, and other *Palatines*. But by this Law he Forbids this to be Practised for the time to come; Commanding that the *Agentes in Rebus* alone be appointed to this Employment. Their number he will have to be two in every Province, which he thinks sufficient for the Publick Charge of the *Cursus*. As to the Duty of the *Curiosi*; he first Requires, that they take Care, lest any make Use of it but such as have License so to do, obtained from the Prince himself, or from other Magistrates who had Power to Grant it, as the *Magister Officiorum*. As also, that none exceed the Liberty Granted to them; as if they have only Permission to make Use of one Chariot or Carriage, that they have not two, or instead of a Lesser, a greater Waggon. Here, as to the usual Carriages, mention is made of these four several sorts, viz. of *Rhedæ*, *Birotum*, *Veredus*, and *Clabula*. That called *Rhedæ* was drawn by no fewer than Eight or Ten Mules; the *Birotum* with three: *Veredus* was a single Horse, and the *Clabula* was drawn by four Oxen. He further requires, that such as pretend Licence from the Prince, do produce it, and make it appear to these *Curiosi*, of what Condition or Degree soever they are; whether *Tribunes*, *Notaries*, or such as bear the Title of *Comites*.

43. In the mean time, the *Persians* Infested the *Eastern* Provinces; not Fighting, as they were wont, but like Thieves and Robbers, snatching away what they could get; in which course of Hostility they sometimes Fared well, and other whiles came by the Worst, and short home. *Musonianus*, the *Præfæctus Prætorio* of the *East*, being a Man of Good Parts, but, as the Humour of the Times was, Mercenary, and easie to be drawn aside by Money, by certain Cunning Emisaries he employed, discovered their Designs, having taken in to his Assistance *Cassianus*, the *Dux* of *Mesopotamia*; one who was Hardy enough, as an old Souldier. Although by their Spies they knew sufficiently that *Sapor* the King was Employed in a Bloody War against some Neighbouring Nations; yet did they solicit *Tam Sapor*, one who Commanded the Forces which lay nearest to the Empire, to perswade his Prince by Letter to make Peace with the Emperour, that being thereby rendred Secure on this side, he might with the more Ease and Security Grapple with his other Enemies. This he undertook, and signified to his Master, that *Constantius*, being Involved in most Difficult Wars, earnestly begg'd Peace; but in the passage of the Messengers to the Countries of the *Chionitæ* and *Alani*, where the *Persians* Wintred, much time was spent. While Matters went thus in the *East*, *Constantius* lying still at *Milan*, and having little to do, resolved to take a Journey to *Rome*; there, as our Author Censures him, without any good Pretence, to Triumph over the *Roman* Subjects whom he had kill'd; the first that did thus after the Destruction of *Magnentius*: as if he had now shut the Temple of *Janus*, although neither he in Person had Conquer'd any Nation, nor by the Valour of his Captains had Subdued any, nor added New Provinces to the Empire. So far was he from this, that he was never seen in the greatest Dangers, nor to go on with the Forwardest; but loving to make a great Show, that the People, who little cared for it, or at all desired it, might behold his Banners Glistering with Gold, and his Guards with Silver. He was pleased to be seen abroad, not knowing, perhaps, that some Princes of old would in times of Peace be content with a few *Lictors*; but when the Case required it, venture their Lives with all Alacrity, and refuse no Dangers, that they might leave the Memory of their glorious Actions behind them. By the Greatness and Splendour of his Train, as well as the great Dignity which he enjoyed, he drew the Eyes of all Men upon him, and, as with a Complete Army, pursued his Journey towards the City.

Sect. 4.

The manner
of his Entry.He greatly ad-
mires the City.But what is it
chiefly.

44. When he came nigh to it, he was met by the *Senate*, and all the People, and so great was the Confluence, that he thought all the World was met at *Rome*. In his Golden Chariot he made his Entry, shining like the Sun, through the Quantity and Lustre of its Gems. The Dragons Embroydered upon Purple, fluttered in the Air about him from the ends of their Staves, which Glistered with Pearl and pretious Stones; and while they were tossed in the Wind by their Length and Wavings, they seemed to imitate the True and Living ones in Hissing, and in the Tortuosity of their Tails. He was Encompassed with double Ranks of Armed men, who wore Targets and Helmets, as also Corslets bright and shining; and amongst them rode here and there the *Cataphraeti*, (whom the *Persians* called *Clibanarii*) so Fenced about their Bodies and Limbs with Iron, that one would have imagined them to have been Images, polished by the Skilful hand of *Praxiteles*, and not Men; their armour being so wrought with Joynts, that what Part soever they moved, it gave way. The Emperour now being Saluted on every side with lucky Acclamations, and the Noise, both of Voices and Instruments, sate as it were Astonished, and kept himself as Immoveable, as he was wont to do in the Provinces. For as he entred the High Gates, he stooped with his very low Body; but kept his Eyes still fixed before him, and as if they were set in his Head; looking neither on the one side nor the other, neither when the Chariot shaked, at all moving; not so much as Spitting, wiping his Face, or blowing his Nose, or in the least seen to stir an Hand: which posture of an Image, though he did affect, yet (saith our Historian) this, and some other passages of his Life, were signs of no small Patience; and as one would have thought, to him alone granted. But again, he seemed as rigidly Supercilious, on the other side, that during his whole Reign, he never took any man up to him in his Chariot, nor used other marks of Civility wont to be bestowed, upon Discretion, by other Princes. When he was come to the *Rostra*, he was amazed at the Sight of the *Forum* (that Demonstration of the ancient Power of the Inhabitants) and when looking on every side, he could behold nothing but Miracles, he spake to the Nobility in the *Curia*, or *Senate-House*, and made a Speech to the People from the Tribunal. He was wonderfully delighted with the Place, and was thereby moved to so good Humour, that when the *Equestrian* Games were celebrated, he was well pleased with the usual Tatling of the Multitude, which carried it self towards him, neither sawcily, nor yet abating any thing of it's wonted Liberty at such Solemnities; and he accordingly kept his Mean, neither bearing himself haughtily, nor descending from his grave Deportment. In the view of the City these Rarities he most admired: the *Temple of Jupiter Tarpeius*, excelling, if you believe *Ammianus*, as much other Buildings, as Divine things are wont to surpass those that are but humane; the *Baths* built in manner of Provinces, he means as large. The *Amphitheatre*, to the Top whereof the Sight of man could hardly reach. The *Pantheon*, famous for it's Arches and Pillars, having the Trophies and Statues of *Consuls*, and ancient Emperours on the Top; the *Temple of the City*, the *Forum of Peace*, the *Theatre of Pompey*, the *Odeum* or Place of Musick, the *Stadium* or Course, and other Ornaments of this *Eternal City*; the ordinary Epithet our Author gives it, as do the Emperours in their Laws.

45. But when he came to the *Forum of Trajan* (that Structure of all Structures, under Heaven, as we suppose (saith he) and by Assent of the Divine Powers, Wonderful) and considered the Gigantick Workmanship, neither by words to be set forth, nor to be imitated by Mortals, he stood astonished. But some Emulation the sight thereof wrought in him, though he Despaired of doing any thing to equal any thing in it, except the Statue of *Trajan* on Horseback, which, he said, he both could and would Imitate. To which *Hormisdas*, one of the Blood Royal of *Persia*, standing by, Replied, that he first should do well to Build such a Stable, and then bring a like Horse into it; who being also Demanded what he thought of *Rome*, made Answer, That *He was only Pleased* (Displeased *Sigonius* reads it) in this one thing, *that Men died there as well as in other Places*. The Emperour Amazed with what he Daily saw, Complained of Fame, for her either Weakness, or Malignity, that usually Enhancing the Repute of other things, was Deficient in what concerned *Rome*; and Deliberating much what to do, he resolved to add to the Ornaments of the City, and to Erect an *Obelisk* in the *Great Cirque*. In the mean time, *Eusebia* the Empress practised too much her skill upon *Helena*, the Sister of her Husband, and Wife of *Julian*; which Lady, having in shew of kindness brought along with them to *Rome*, she perswaded her to take something which made her Miscarry; for, being Barren her self, she could not endure that She should be a Mother; and therefore, when she had formerly in *Gall* been brought to bed of a Boy, she

A. D.

357.

urbis Templum
primus condidit
Hadrianus An-
no M. C. 874.

Gestis Gentili,
vel Aslu Gentili,
ut Valesius
legere maxult.

Sect. 4. He bribed the Midwife to Destroy him, by cutting off too much of his Navel : A.D. 357.

He is called away by the Invasions of the Northern Nations.

so great endeavour was used to prevent that most Valiant man his having any Issue, (saith our Writer.) As for *Constantius*, he had a great desire to stay still at *Rome*; but was called away by frequent Messages; that the *Suevi* had invaded *Rhetia*; the *Quadi*, *Valeria*; and the *Sarmatae*, a People skilful in pilfing above others, had made their Incurfions into the Upper *Mælia*, and *Pannonia* the Second. He therefore Departed the City, the Twenty ninth of *May*, the Thirtieth day after his coming thither. *Sigonius*, *Baronius*, and others, place this his Journey to *Rome* in the preceding year, viz. the CCCLVI of our Lord, and the Twentieth of his Reign, but that it happened in this following, we are induced to believe, from the Dates and Subscriptions of some Laws, which Declare him to have been at *Rome* this year, and at this very time of the year; whereas in Laws of the preceding, of *Rome* there is no mention. There were certain Accomptants, or Clerks, belonging to the Armies, though no Souldiers, yet under Command of the *Magistri Militum*; their work being to keep Books of what Provisions were due, and paid to every Company, and of every man that served in them. These men, to prevent the Auditing of their Accounts, in which they were often found Careless or Dishonest, were wont to procure themselves to be raised to Places of Dignity, of which *Constantine* the Great taking notice, had prohibited that practice; yet notwithstanding was it grown again to such a Grievance, that by an Edict Directed to *Taurus*, the *Præfæctus Prætorio*, *Constantius* Reinforces what was Ordained by his Father, and Orders him to write to the *Magistri Militum*, that the Law be put in effectual Execution. This Edict bears Date from *Rome*, on the sixth of *May*, in the Ninth Consulship of *Constantius*, and the Second of *Julian*. There is another Edict, Dated also at the same Place, and directed to *Olybrius*, (rather *Orphitus* should be read) the *Præfæct* of this City, in Favour to which the Edict is made, Prohibiting any Persons to Injure or Molest the *Navicularii*, who brought thither Provisions, either in their Coming or Return, under pain of Forfeiting Ten Pounds of Gold. Indeed the Date of this Law is on the first of *June*, whereas *Ammianus* writes, that *Constantius* departed three dayes sooner; but a Mistake of three dayes is easie; or instead of *Dated*, is rather to be read *Received*; they being both usually set to the Constitutions of Princes.

Some Laws he made at *Rome*.

He comes to *Milan*.

46. *Constantius* departing from *Rome*, came to *Milan*, and there made his stay till toward the middle of *December*. Here he received Complaints, how the *Agentes in Rebus* abused the Favour he had shewed largely to them; by which Encouraged, and presuming, they Committed many outrageous Acts, both of Violence, Rapine, and Adultery. For they were under the Disposition, as the *Notitia* of the Empire sets them, of the *Magister Officiorum*, and from his Office, or Attendance, were sent abroad into the Provinces, as occasion served. Now *Constantius*, forced to it by the many Complaints of the People, by an Edict bearing Date of the Twenty

Where he restrains the Extravagances of the *Agentes in Rebus*.

fourth of *September* to *Taurus*, the *Præfæctus Prætorio* (or at that time Received) takes away all benefit they had from such Relation or Dependance, and subjects them and all other *Palatine* Officers whatsoever, in case of any Crime committed, to the Jurisdiction of the Ordinary Judges of the Provinces; in like manner, as by another Law he Enacts, That the *Curiosi*, whom he Ordered, as we have seen, to be Chosen out of their Body, be Judged by the *Præfæcti Prætorio*. In case of Violation of Chastity, he Commands, that they be punished according to the usual manner. But in case of Rapine, or taking away any man's Goods, that they Restore Double; as he also the same year, by another Edict, threatens the *Curiosi*, with payment of Four-fold the Value of what they unjustly took away. We lately mention'd how, in a Law made concerning these *Curiosi*, he took care of the *Cursus Publicus*, or Postage. But besides that, by two other Edicts made this very year, and Directed to the same *Taurus*, the *Præfæctus Prætorio* of *Italy*, did he further provide for the due Management of that Publick Service; which, as thence appears, was of extraordinary Concernment at this time, and scarcely sufficed to serve Publick Ends: of which this might be one reason, that there were many *Synods* to which Bishops posted up and down in those dayes, (touched at by *Ammianus*) and they had the Use thereof Granted them in their Travels: but besides the Express Charge, that none of what Quality soever (the *Præfæcti Prætorio*, and the *Magister Officiorum* excepted) might make Use thereof, without having produced a Licence (if they did, their Names were to be Certified, either to the *Præfæct* or the *Magister*;) several other wayes he prescribes for prevention of Abuses. Left the Beasts should be over-wrought and spoiled, He settles what Weight the three sorts should carry: as the *Rheda*, not above one thousand

And further provides for the *Cursus Publicus*.

Idi Chronic.
Historia. ad
A.D. CCCLVII.

L. 9. de Naviculariis Cod.
Col. Theod.
lib. 8. tit. 1.
Dat. Præd.
Non. Mart. Ad-
est a Cod. Ju-
lian.
L. 9. de Naviculariis Cod.
Th. lib. 13.
tit. 5. Dat.
Roma, Kal.
Junii.
Data pro Ac-
cepta.

L. 2. de Jurisd.
ditione, &
ubi que. Con. ex.
Dei. Cod. Th.
lib. 2. tit. 1.
Data & Accep-
ta 2. Kal. Octob.
Ad ill. hanc Lav
de Cod. Justin.
quia T. r. para-
ra et Histori-
ca 18. vide
Comment.

L. L. 8. de 2.
de Cursu publico
Cod. Th. lib. 8.
tit. 5.

Sect. 4. sand pound Weight; the *Biotum*, not above two Hundred; and a single Horse, “ *A. D.*
 or *Veredus*, no more than Thirty. He will have the *Rbeda*, which had four wheels, “ 357.
 in Summer to be drawn by eight, and in Winter by ten Mules; but thinks three “
 sufficient for the *Biotum*, which from its two wheels had its Name. Then doth “
 he Restrain and Limit the Power of the *Præfectus Prætorio*, as to Granting Licen- “
 ses, as not to give leave to any to make stay upon the Road, and have Allow- “
 ances or Provisions, at the Mansions or publick Inns. Which Indulgence the “
 Prince Reserves to himself. That he shall not Lightly Grant the Use of the *Rbeda* “
 and *Biotum*; but as to the *Veredus*, he being a single Horse, was not of that Im- “
 portance, and he must not Grant any Licenses at all to the *Agentes in Rebus*, when “
 sent on a Message into the Provinces; because they were to receive them, either “
 from the *Magister Officiorum*, or the Emperour himself.

How Matters
in the mean
time went in
Gall.

47. While the Emperour Employed himself in making of Laws, let us see how *Se-
 verus* behaved himself in Gall. He was much pleased that *Constantius* had sent *Se-
 verus* to Command under him in the room of *Marcellus*; a Man of a Facile and
 Compliant Humour, and of a very good Experience. *Barbatio*, who after the Death
 of *Sylvanus* was also Promoted to be *Magister Peditum*, was sent out of Italy with a
 Supply of Twenty five thousand men, by doubled Forces, if it were possible, to *Alii de zoooco
 scribunt, atque
 nunc quidem
 Juliano Cesari
 a Constantio esse
 concessum, ut suo
 jure ageret, &
 Exercitus pro
 Imperio regeret.
 Nam antea sub
 Marcello, nihil
 nisi Cesaris No-
 men atque Insigni-
 a circumtul-
 rat: idq; precibus
 Eusebii Aug-
 rusti Exoratum,
 Constantium
 concessisse scri-
 bit Zosimus lib.
 3. Vide Valesi-
 um in L.*
 Curb the *Almans*, and Force them up into their Bounds. Yet herewith were they
 not so Terrified, but that passing betwixt the two Camps, in their pilfing manner,
 they Roved as far as *Ingædunum*, or *Lions*, and little misled, but that they had
 Sacked and Burnt it; but being timely shut out, and Repulsed, they Wasted the
 Countrey round about *Julian* having notice hereof, sent away three strong
 Parties of Horse to lye in wait for the *Barbarians* in three several places, by which
 he concluded they would return, and his Design wanted not good Success; for
 they were all cut off, and the Booty Recovered, except such as escaped, where
Barbatio had his Post Assigned him. There *Bainobaudes* and *Valentinian* (who af-
 terward was Emperour) being with their Troops Commanded to keep the Guard,
 were forbidden by one *Cella*, the Tribune of the *Scutarii*, who Accompanied *Barba-
 tio* in the Expedition, to watch and keep such Ways as they had learn'd the Ger-
mans were to return by. This, as *Cella* afterward confessed, was done by order of
 the *Magister Peditum*; but he being a Coward, and Envyng the Fame of *Julian*,
 to Excuse himself, and make the other Suspected, told another Tale to *Constantius*;
 as if these two Tribunes, under pretence of Publick Service, came to withdraw from
 their Obedience the Souldiers he Commanded; upon which Accusation they were
 turn'd out of their Places, and sent home. However, this Defeat, and the noise of
 the Approach of the Armies so terrified the *Barbarians* that lived on this side the
Rhine, that such ways as were difficult of themselves to pass, they endeavoured to
 make utterly impassable, by the cutting down of great Trees: others betook them-
 selves into the Islands, with which that River is bespread, here and there, reviling
 and cursing *Cæsar* and the *Romans*. *Cæsar* demanded of *Barbatio* seven Boats with
 which he intended to make Bridges over into these Islands; but he, having Notice
 of his Design, burnt them all; so that being herein frustrated, he resolved to send
 over some *Auxiliary Velites*, under Command of *Bainobaudes*, the Tribune of the
Cornuti, at a place, where he understood from Prisoners, the River was fordable.
 These men sometimes wading, and sometimes swimming by help of their
 Targets, got into the nearest Island, where they slaughtered, like so many Sheep,
 all those they met with, and there getting some small Boats, passed over to the
 other Ile; where having wearied themselves with killing, they returned laden with
 Booty, but lost part of it in the River. The other *Germans* finding in the Island but
 little Security, removed with all they had into places more remote.

48. After this *Julian* bent his Study to fortifie the *Three Tabernæ*, a Fort so call-
 ed, which having been lately demolished by the Enemy, was now thought to be of
 that Consequence, as to hinder the Irruptions of the *Germans* into Gall; and he finish-
 ed the Work sooner than could be hoped, and laid in Provision for an whole year,
 which with much Hazard he got out of the Enemies Country. Besides, he victu-
 alled his own Army for twenty Dayes: for of such Corn as had been of Course pro-
 vided, *Barbatio*, as it came that way, took half, and burnt the rest; either of his
 own Head, as he was a vain and a sick-brain'd man, or by private Hints from the
 Emperour how to behave himself toward *Julian*; who, as was whispered up and
 down, was not sent on Purpose to Relieve the Province of Gall, but to be expo-
 sed to the Wars, that he might miscarry, being look'd upon as raw, and unexpe-
 rienced, and one that would not endure so much as the clashing of Weapons toge-
 ther. But while he busied himself in building this Fort and other Works, the *Bar-
 barians*

Kaurati, Kaurati
Pauze
du Tour de
Bale Gaurati
Gaurati.

50. The Right Wing of the *Roman* Army gave ground, and began to run in much Disorder, till one hindring another in the Flight, Shame so wrought upon them, as to make them stop their Career: but then again the *Cataphracts* perceiving their Commander to be wounded, and another by the Weight of his Armour fallen from his Horse, thereat discouraged, turned their Backs, and shifted for themselves; which ill Example so moved the Foot, that they had run too, if one had not also hindered another. *Julian* seeing the Horse thus shamefully running away, by all the Rhetorick he had, laboured to stop them; and his Language so much prevailed with one of the *Tribunes*, who knew him by his Purple Banner, whereon was wrought a Dragon fixed to a longer Spear than ordinary, that he made an Alt, and endeavoured to persuade his Companions to Rally. In the mean time the *Almans* having Routed the Horse, were fallen with Violence upon the Foot; but found more Resistance, after they came to Handstroaks, from the Valour and Experience of the *Corinti* and *Braccati*: yet was the Fury of the *Germans* so great,

**The Battel of
Argentoratum.
or *Strasburgh.***

Sect. 4. great, that it prevailed against the sedate Cautiousness of the *Roman Legions* so far, as that cutting themselves a Passage through their Ranks, they pierced as far as the Body of those called *Primani*, who being the choicest *Legion* of all, received them with still more Care and Circumspection; and taking Advantage at their Rashness, did so great Execution upon them, that the Pursuers at length, after a great Slaughter, despaired of Success, and were themselves put to flight. The *Roman* confessed the Success was more according to his Wish and Desire, than Expectation; and giving the Chase, when his own Weapons were blunted with hacking and killing, sheathed the Enemy's Sword in the Bowels of the owner. The *Germans*, not able to flie fast enough for the Heaps of dead Bodies lying in their Way, many of them ventured to take the *Rhine*, which was near to the Place of Fight, and therein were most of them, either drown'd or killed by the *Romans*, whom *Cæsar* (with much ado) restrained from entering the River, though the Rapacity thereof threatened them with present Destruction. *Chnodomarius* endeavouring to pass the Water, was known by the great Bulk of his Body (as all his Countrymen were ordinarily Large and Tall) and being pursued was forced to yield, together with his Followers, two hundred in number, and three of his most intimate Friends. Of the *Germans* were six thousand found dead in the Field, besides vast numbers which perished in the River. Of the *Romans* fell but two hundred, and three and forty; and of these four Commanders, amongst whom was *Bainobaudes Tribune* of the *Cornuti*. The Army saluted their General with the Title of *Augustus*; but he flatly refused it, Swearing, that he neither expected, nor desired that Honour. *Chnodomarius* being brought before him and his Council, humbled himself upon the Ground, and beg'd Pardon, which was granted him; and being sent afterward to the Emperour's Court, he ordered him to be convey'd to *Rome*, where he died at length in the Place called *Castra Peregrina*, on *Mont Cælius*. The News of the Success being brought to the Emperour; they about him ascribed it to his Felicity alone; and he was so much puffed up with their Flatteries, as in his publick Edicts to ascribe this and other Victories to his own Valour, as if he had fought at the Head of his Army. Insomuch, that when he was in *Italy*, if any of his Captains fought prosperously against the *Persians*, by his Laureat Letters sent into the Provinces, he would pretend to have engaged amongst the Chiefest, making no mention at all of him that had won the Battel. This prodigious Story *Ammianus* tells of him; though amongst his Laws now extant, we find no such Edicts; and *Aurelius Victor* attributes the Success of his Officers to his Councils.

51. *Julian*, after the Battel, Commanded all the Bodies to be buried; and then setting at Liberty the Ambassadors of the *Almains*, who had brought that Imperious Message, returned to the *Three Taberna*, the Fort he had lately repaired; whence sending the Prisoners, and all the Booty to the *Mediomatrici*, there to be kept, till his Return; he resolved to go to *Maguntiacum* (now *Mentz*) and by a Bridge to fall upon the *Germans* in their own Country. Surprized by so unexpected a thing, and to divert him, they sent and beg'd a Peace; but then suddenly changing their Minds (upon what Grounds it's not easie to say) by other Messengers they threatned him with War, in Case he would not depart out of their Territories. *Cæsar*, to begin first, sent over a Party into their Country, which wasted all with Fire and Sword, and resolved to repair a Fort, that *Trajan* formerly had called after his own Name; which so exceedingly discouraged them, that they sent and again beg'd Peace, and a Truce he granted them for ten Moneths, resolving in that time to finish those Fortifications that he had begun. But returning to his Winter-Quarters, he found other Work cut out for him. For six hundred *Franks*, encouraged by his Absence in *Germany*, and finding none to make any Resistance, had rifled all the Country about *Rheims*; and when they heard of the Return of the Army, seized on two Forts which had been dismantled, and therein fortified themselves as well as they could. *Julian* very much startled at the News, concluded that they were not to be suffered to escape without Chastisement, and laid Siege to one of the Castles, standing upon the *Mosa* (or *Meuse*) which held out three and fifty Days, almost all *December* and *January*; so pertinacious and obstinate were the Defenders. But resolving to starve them out, lest by night they should escape over the River, that was then Frozen, and bring in Provisions; he caused the Ice to be broken, and Boats all the Day long to ply to and again, on Purpose to keep the Water open: with which, and other Courses, they were so discouraged, as to yield themselves; and were by him sent away to the Emperour. A multitude of their Countrymen were coming to their Relief; but understanding how they had Fared, and were disposed of, returned to their own Homes. All Coasts being now clear, *Julian* went

A.D.

357.

Wherein *Julian*
beats the
Germans.

*Zosimus plus
æquo Juliani
Gloria studens
(nisi Error in
Textum irrepse-
rit) sexaginta
Millia Alaman-
norum dicit
in Campo con-
strata, totidem-
que vi Fluminis
Consumpta,
quod est Falgissi-
mum. Valesius
in l.
Libanius
30000. tan-
tum in Ex-
ercitu Germa-
norum esse dicit
et in his 8000
fuisse occisa.*

*Ammianus
Marcellinus
lib. 17.*

He hath the
better of the
Franks, who
wasted the
Parts about
Rheims.

He goes to
Ratis.

Señ. 4. to *Paris*, there to spend the remaining part of the Winter, and to Consult how to Improve the small time of the Truce, to the Ease and Refreshment of the Exhausted Provinces: and about this Matter hapned a Contest betwixt him and *Florentius*, the *Prefectus Prætorio*. For the *Prefect*, whose Duty it was to take care of the Tributes, finding so much behind of the Sum, would have it made up by greater Burthens laid upon those that were able to pay, after the manner we have already related, how in case the Grounds or Estates of some failed, the Sum was to be Completed by the Neighbours. But *Julian* opposed it, saying, he would lose his Life before he would suffer such a thing to be done; knowing well, that this way of Provisions Ruined the Provinces, and particularly, had brought *Illyricum* into a sad condition. The *Prefect* exclaiming, and urging, that he must not betray his Trust to the Emperour, who had committed to his Management things of this nature; he endeavoured to Pacifie, by gentle words, and casting up the Accounts, shewed him, that the Tribute; as now Collected, would suffice, over and above, for the Publick Expence. Notwithstanding, afterwards, there was offered to him a Bill for an Additional Tax, which he would not so much as read, nor subscribe, but cast it to the Ground. And when the Emperour, by Letters, admonished him not to be so Nice, nor Detract from the Repute of his Minister; he wrote back, that the Provincials paid what was sufficient, and more could not be got, where it was not to be had. His Constancy and Resolution herein so far prevailed, that no greater Burthen than usual was laid upon *Gall*: and, which thing otherwise was not heard of; he prevailed with the *Prefect*, to have the Management himself of the Revenue of *Belgica Secunda*, which was grievously harassed; so that no Officer or Apparitor belonging either to *Prefect* or *President*, should meddle with the Collection; which proved a very great Ease to the Inhabitants, who paid their shares rather sooner than they became due.

He goes to Paris.

Provides for the Ease of the Provinces.

A. D.
357.

52. Having settled these and other Matters, as he thought convenient, he made all provision he could to prevent the *Almans*, and be upon them ere they could be united. He had not the Patience to stay for the Month of *July*, at what time the *Gallican* Armies were wont to take the Field; for, being supplied with Corn out of *Aquitain*, they could not March till they had the Provisions with them, which coming, both so far, and so slowly, by reason of the Weather, could not be ready before that time. But, as Reason and Diligence are wont to Conquer Difficulties, that he might come upon the *Barbarians* unexpected; he resolved to take with him twenty dayes Provision, and went his way; hoping, at this rate, to Finish two Expeditions in the space of five or six Months. He first Attacked the *Franks*, called *Franci Salii*, who in former time had taken the boldness to plant themselves in *Toxandria* *, (now *Brabant*.) within the *Roman* Pale. Being come as far as *Tongres*, their Ambassadors met him, desiring that living Quietly, and Inoffensively, they might find suitable Usage from him; whom he sent back rewarded, with a doubtful and perplexed Answer, and, as if he intended to stay in the same Place till their return; but meaning nothing less, he was well-nigh with those that sent them, as soon as they; and sending *Severus* with a Party on before him, fell upon them like a Tempest, and by the Surprize forced them to give up themselves, and all they had into his Hands. After this, the *Chamavi*, who had Deserved just as much as they, he Treated not after the same manner, though he used the same circumstance of Haste and Surprize; for they made very stout Resistance, and some he killed, others he took alive, and cast them into Bonds, and the rest he suffered to escape; and when their Messengers, prostrate on the ground, begged Pardon, he granted it to them. Things thus far succeeding according to his wish; he thought fit to deferr his further March till such time as he had Reinforced three Castles upon the *Meuse*, that by the *Barbarians* had been then Dismantled. This Effected with great Celerity, and having seventy dayes Provision still with him, he thought fit to supply those that he left therein, with part of it, in hope to make it up, with advantage, out of the Fields of the *Chamavi*; though it happened otherwise. For the Corn was not yet Ripe; and the Army, now wanting what had been left in the Castles, when the Countrey afforded no Recruit, began to Mutiny, and to Threaten their General; calling him in derision, *Asianus*, *Græculus*, *Cheat*, and a *Coxcomb* under the Vizard of Wisdom. They complained, that they had formerly endured the Snow and Frosts, and now were to be exposed to Extremities of Famine, which caused the most Lazy kind of Death of all others. That they only in what they said Pleaded for their Lives, neither for Gold nor Silver, things, they had not the happiness, either to Handle or See; as if they had undertaken so many Labours and Dangers, not for, but against the Commonwealth. Neither wanted the Souldier just reason for these Complaints: for though the *Gallican* Army had under-

* Ita dicta à Toxiandris, sive Toxandris, quos in Belgica locat Plinius. lib. 4. c. 18. non longe à Scaldi fluvio. Hoc in loco sedes fixerant Salii, tunc cum à Saxonibus Patrii pulsi Bataviam Insulam, & vicina loca occupaverunt, ut refert Zosimus lib. 3. Vales.

He subdues the Salii Franci, and the Chamavi.

His Army wants Provisions, and Mutinies.

Sect. 4. dergone so much Toil, and was so much Exhaulted, it had never receiv'd a *Donative**, A. D. 357.
 nor so much as the ordinary Pay. For *Julian*, since his Arrival, had not wherewith
 to do it, and *Constantius* would not permit the Money to be raised the usual way;
 which *Ammianus* interprets to have proceeded, rather from Design than Covetous-
 ness. For when a Common Souldier, on a time, asked *Julian* something, as the Cu-
 stom was, to cut his Beard, and he gave him some Inconsiderable Matter, he was most
 Contumeliously traduced for so doing, by *Gaudentius*, then a Notary, who lay a
 long time in *Gall*, to pry into his Actions, and whom (to be even it seems with him)
 when he came to be Emperour, he Commanded to be put to Death.

He diverts
 them, by an In-
 vasion, into
 Germany.

Two Kings
 submit them-
 selves.

53. But with various Arts, and much ado, he Appealed the Tumult; and to Di-
 vert them by Action, laid a Bridge of Boats over the *Rhine*, and Invaded the Terri-
 tories of the *Almans*. In this Expedition, *Severus*, the *Magister Equitum*, having for-
 merly had the Reputation of a Valiant and Industrious Man, now turned Coward;
 and he, who was wont to Exhort others to demean themselves Gallantly, now stood
 in need to be spurred on to Action. Yet were the *Almans* so Discouraged at the In-
 vasion, that *Suomarins*, one of their Kings, who had formerly been ready enough to
 Fight against the *Romans*; thinking it a great Atchievement, if he could but save
 himself, on his bended Knees, came and yielded his Person and all he had, to the
 Discretion of *Cæsar*, who granted him Pardon, on this Condition, that he should
 Release his Prisoners, and, upon occasion, supply such *Romans* as Marched that way,
 with Provisions. The Country of another petty King, *Hortarius* by Name, being by
 their Guides led through difficult and tedious Courses, out of Anger, they wasted
 all they could; and when he made what means he might to prevent the Destruction
 of himself and Dependants, by Fighting and Taking of Prisoners, being Worsted,
 he was not only enjoyn'd to set at Liberty all the Captives, but to find Materials
 and Carriages, for Rebuilding those Castles which his Countrymen had Destroyed.
 For, to Impose finding of Provisions upon him, as upon *Suomarins*, would have been
 in vain, his small Territory (*Pagus*, our Author, more properly calls it) being so Ex-
 hausted, that nothing of that kind was to be found therein. And in this manner
 (saith *Ammianus*) those vastly Swelling Kings (and great reason they had to Swell,
 if we knew of what vast Extent their Kingdoms were) who were wont to grow
 Rich by the Robberies they committed against the *Romans* (as little Matter then
 would make them Rich as Great) were constrained to submit their Necks to the Ro-
 man yoke, and did it as quietly, as if they had been Born and Bred amongst Tribu-
 tary Vassals. Which things being Atchieved, and the Souldiers dispersed into their
 Quarters, *Cæsar* returned to his wonted Place to Winter; having done as great Matters,
 if the Reader will believe it, against these Kings of *Collein*, as was performed by the
 Antient Captains, even against the *Carthaginians*, or *Cimbrians*; so great is the force of
 Favour to one, and Prejudice to another, that Posterity must be defrauded of sincere
 Relations, even by those that most pretend to the Historical Vertue of Veracity.

He is envied
 at Court.

54. But when the Report of these things came to Court (for *Cæsar* was
 bound to give an Account to the Emperour of what passed, as much as any Ordina-
 ry *Apparitor*) those men that were Learned Professors in the Science of Flattery,
 turned all, that was both Prudently undertaken, and happily concluded, into Ridi-
 cule. They called him *Goat*, because of his long Beard; a *Pratling Mole*, an *Ape clad
 in Purple*, the *Greek Schollard*, and other Terms they used fully as obliging, there-
 by endeavouring with impudent Language to transform all his Glorious Acti-
 ons into Folly and Cowardise, before *Constantius*; to whom this Noise was very plea-
 sing Musick. But this was no new thing. The greatest Glory is most exposed to
 Envy, which of old time, feigned Crimes, and fixed Disgrace upon the most Illustri-
 ous Captains. So *Cimon* the Son of *Miltiades* was accused of Incest; that *Cimon*, who
 near to *Eurymodon*, the River of *Pamphilia*, cut off an innumerable company of *Per-
 sians*, and compelled that Nation, before Elevated through the Insolency of their
 King, to ask Peace in an humble manner. *Scipio Æmilianus* was also by his Malevo-
 lent Æmulators, taxed with Sloth; even he, by whose constant Vigilancy, two Cities
 of the *Carthaginians*, obstinately bent for the Destruction of *Rome*, were themselves
 Destroyed. Neither did *Pompey* escape such Tongues; whose Detractors, after much
 Inquiry, not being able to find any thing Material against him, had the confidence
 to lay two Heavy Crimes to his Charge; whereof the one was, That he had a Cu-
 stom to scratch his Head with one Finger; and the other, that he bound his Leg with
 a white Garter: the one, they said, was the sign of Idle Affectation, and the other,
 that he was greedy of Innovation, though he did it only to hide a Scar received by a
 Wound. But they Argued, with great Wit, that it matter'd not on what part of
 his Body he wore the Badge of Royalty (the Fillet or Diadem) laying the height
 of

Sec. 4. of Ambition to the Charge of him, than whom, as is evident from good Authority, none was, either more Courageous or Cautious for the Good of his Countrey. So
Ammianus.

A. D.

357.

55. But let us, leaving *Cæsar* a while, see how *Constantius* all this while behaved himself at *Sirmium*; whether he went from *Rome*, as we said before, upon News, that the *Suevi*, *Quadi*, and *Sarmatæ* had Invaded the Empire; and whether he had no other Employment than to receive the satisfaction from his Flatterers, of hearing his Cousin *Julian* made Ridiculous. Being arrived in *Illyricum*, he sent *Severus* to succeed *Marcellus*, and ordered *Ursicinus* to come to Court, who, gladly obeying him, hasted to *Sirmium*; where long Consultation being had concerning a Peace, which *Murionianus* had reported might easily be had from the *Persians*, he was sent away into the *East*, with the Title of *Magister*, and took along with him the eldest of those called *Domestick Protectors*, to Command under him, and some of the younger sort to Execute other Orders, amongst whom was *Ammianus* the Historian himself; as from his very bad *Latin* we guess. But to fetch the *Persian* Matters whence we left them. That King having received Letters from *Tam Sapor*, importing, that the Emperour being intangled with other Difficulties, desired to be at Peace with him, as we formerly said, and having now made a League with the *Chionitæ* and *Alani*, his Troublesome and Warlike Neighbours on that side, he considered what to Answer. He concluded, that the Empire was in a Weak and Tottering Condition, and therefore Resolv'd to make Use of his time, to Accept of a Peace, but upon very extraordinary Conditions. He sent an Ambassadour to *Constantius*, one *Narsens*, with Presents, and a Letter stuffed, both after the Humour of the Man, and of those Eastern *Princes*, from the Time of *Arfaces* (which still the *Turk* and others imitate) with swelling Titles and lofty words: as, I *Sapor*, King of Kings, Partner of the Stars, Brother of the Sun and Moon, wish much Health to my Brother *Constantius Cæsar*; for by this word "*Cæsar*", however at this time, whereof we write, the *Romans* by it denoted, in a proper and peculiar sense, the Second Person of the Empire, yet Foreign Nations usually so called the Emperour himself, and so do still at this day, except those, the Body of whose Language is *Latin* corrupt, or who have mixed and spoiled their own True and Antient Speech with it, as we have done. King nor *Kæsar* is an usual saying, and the *Germans* call their Emperour by that Title. He tells him, he is glad that at length he begins to use Consideration, and to Acknowledge Equity and Justice, being sensible what great Mischiefs a greedy Coveting of what belongs to other Men, hath usually procured. He Appeals to the *Roman* Records, whether his Ancestors had not been Masters of all, as far as the River *Strymon*, and the Borders of *Macedonia*: and, forasmuch as He himself (without Arrogance sure it was spoken) Excelled, by a large Series of Vertues, all Antient Kings, and had, from his Infancy, done nothing he found cause to Repent of, he could not but Requite and Demand what had been Possessed by his Predecessors, and Affirm, that he ought to have Restored to him *Armenia* and *Mesopotamia*, of which his * Grand-father had been cheated. In conclusion, he Advises him, as a Friend, to Quit some part of his Empire, which always was bringing him Trouble and Sorrow, that he might with Quiet and Ease Retain the rest: even as cunning Chirurgeons are wont to cut off some corrupt Member, which endangers the whole Body; and as brute Beasts themselves, of their own Accord, part with that for which their Lives are pursued. And in case he comply not with what he Demands, he professes he will, with all the Power he can, haste, by Force to obtain it, as soon as the Season will permit.

The Persian King sends a Letter with lofty Titles to Constantius.

* Narsens Saporis Avus à Maximiano Galerio ingeniti prælio victus, A.D. 297, Mesopotamiam, cum quinque Regionibus Transligraniæ, reddere Romanis: coactus est, ut uxorem & Filias captas reciperet. Vide Valerium in L.

Constantius his Answer.

56. *Constantius* thought fit to Answer this Braggadocio by Letters thus directed: I *Constantius*, always *Augustus*, a Conquerour both by Sea and Land, to King *Sapor*, my Brother, wish much health. Then he tells him, he Congratulates his Prosperity, as a Friend, if so he please; but that he much condemns his Extravagant Ambition. As to what he strangely Mentions concerning *Armenia* and *Mesopotamia*, he bids him receive for Answer, that he perceived his *Præfectus Prætorio* had, out of good Intentions, as he thought, by Interposition of some inconsiderable Persons, mentioned something about a Peace, without his Knowledge or Approbation; yet was he not against it, provided it might be such an one as would be Safe and Honourable; but neither the one or the other he was sure it would be, after having Defeated all Usurpers, and Recovered all the *Roman* World to his Obedience, to part with those his Provinces in the *East*. He Advises him to forbear his Threats, or to think to scare him with words, who, more out of Moderation than want of Courage, had hitherto rather Defended himself, than otherwise, as he should do for the time to come; forasmuch as he well knew, both by Reading and Experience, that the *Romans* were seldom worsted in Battels; to be sure, as to the Main, were never wont to be Losers in War. Without any good Effect was the *Persian* Ambassadour sent back; and, after a few dayes, followed

Señt. 4. *Prosper*, a *Comes*, and *Speñtatus*; a *Tribune*, and *Notary*, with one *Eustachius* (at the Suggestion of *Mufonianus*) a *Philosopher*, and esteemed an able Artist in Persuasion, carrying with them this Letter and Presents to *Sapor*, if possible, to preserve the Eastern Countries in Quiet. While they were on their Journey, the *Juñungi*, a German People, broke the League and Peace, which, by much Intreaty, they themselves had procured; and wasting *Rhetia*, laid Siege to several Towns; but were so handled by *Barbatio*, lately promoted to be *Magister Peditum*, in Place of *Sylvanus*, that few of them escaped home; which hapned, as *Ammianus* will have us believe, not by any Care, or Valour of the General, who was a Coward in all things, except his Tongue, but through the Alacrity of the Souldier. At the same time most dreadful Earthquakes distressed *Macedonia*, *Asia* and *Pontus*, which not only overthrew many Towns, but levell'd Mountains; and killed, and Maimed great Numbers of miserable People.

Constantius
Erects an Obelisk at Rome.

57. *Constantius* now, who by various Laws, and otherwise, took Care of the State of the City of *Rome*; to increase it's Ornaments, caused an Obelisk to be conveyed out of *Agypt*, from *Thebes*, where had been plenty of them, and erected in the great *Cirque*. Wintring at *Sirminum*, he was perpetually vexed with fresh Alarms of the *Sarmatae* and *Quadi*; who very much agreeing, both in their Customs and way of Fighting, infested both *Pannonia's* and *Mæsu*. Being accustomed rather to Robberies, than open War, they used Lances longer than those of the ordinary Sife; wore Corslets made of polished Horn, placed upon Linnen, as if it had been Feathers, and rode upon Geldings, as those that would be quiet, though with Mares, and as tame in all other Respects, as one would desire; withal so swift, and disciplined, that they would fetch off sometimes one, and sometimes two, or more Prisoners, if they had careful Riders. At the Vernal *Æquinoctial* *Constantius* prepared to be in the Field; but, in the mean while, spent some time in Consideration of Civil Affairs, as well as for things relating to his Arms. One Miscarriage he took Notice of in the Province of *Africk*, which redounded to the Burthen of the Subject. The Reader cannot but remember, how we have formerly told him, that there were Provisions for the Army, called *Species Annonariae*, wont to be gathered and laid up by the *Præfatus Prætorio*, or his *Vicar*, in the publick Storehouses. Now as by these great Officers, the Provisions were raised from the People, so without their Knowledge and Authority, they could not legally be taken thence; otherwise, the Publick Stores might be imbezelled, the Souldiers want when there might be urgent Occasion, and the People oppressed by new Exactions. But the *Comes Rei Militaris* throughout *Africk*, either not knowing his Duty, or presuming too much upon Impunity, had on his own Head, and without Consent of the *Vicar* of that Province, made Use of the Provisions there deposited. Of this, by an Edict, Dated this Winter from *Sirminum*, on the eighteenth of *December*, and directed to *Taurus*, *Præfatus* of *Italy*, *Constantius* takes particular Notice, and forbids the Practice for the time to come; ordaining, That the *Comes* aforesaid should in such Cases write to the *Vicar*, what Quantity of Provisions, and for whom it was wanting; which done, and the *Vicar* thereof approving; so much should be taken out, and accordingly employed.

By Laws provided for the Authority of the greatest Magistrates.

58. By another Law made at this same Place, and as seems, in this same Moneth, directed as the former, to the same *Taurus*, he determines something considerable in behalf of his Jurisdiction, as *Præfatus Prætorio* of that District. He tells him, That he shall hear and determine Appeals made out of *Sardinia*, *Sicily*, *Campania*, *Calabria*, *Bruttii* and *Picenum*; as also *Æmilia*, *Venetia*, and the rest. Neither can any Confusion happen betwixt his Jurisdiction herein, and that of the *Præfatus* of the City, to whom he had given order, not to meddle with, or take Cognisance of the said Appeals. As to the Interpretation of this Law, great Dispute there hath been, whether now first of all, the Right of receiving Appeals was granted to the *Præfatus Prætorio*, which formerly had belonged to the *Præfatus* of the City, or only by it that Authority and Right, which before he had enjoyed, be settled and established in him. And rather we are to think, that this was given him *de novo*; which formerly did belong to the *Præfatus* of the City, an antient Officer, and of great Authority in those Parts. But we must not conclude, that all Authority in these Provinces was taken away from him by this Law, which plainly Hints the contrary, in that it saith, No Confusion should happen, nor Interfering, betwixt their Jurisdictions. For other Acts of Authority he might there exercise; although the *Præfatus Prætorio* received Appeals. However this Law did not, as to all those Provinces, continue long in force; for that, from some of them, namely, *Campania*, it's evident, that the *Præfatus* of the City receiv'd Appeals; to whom also *Valentinian*

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L. 3. de Evocatione Militaris Annonæ, Dat. 15 Kal. Jan. Sirinio; Constantio Aug. 9. et Juliano Cæs. Cols. A. D. 357. Abest à Cod. Justin.

L. 27. de Appellat. et Consultation. Cod. Th. lib. 11. tit. 30. Abest à Cod. Justin. velut Historica et Localis.

Vide Gothofredi Comment.

Sect. 4. *nian* ordain'd, when many of the Provinces of *Africk* were fallen into the Hands of *A. D.*
Barbarians, and the Power of former Magistrates ceased there; that Appeals should 3 5 8.
 lye from all the Judges, of such Parts as continued in Obedience to the Empire.
 Whereas, besides the Provinces expressly mentioned, this Edict points at others by
 that Word, *the Rest*; by these are to be understood *Lucania, Apuleia, Flaminia* and
Tuscia. Neither are any of them to be thought to have been of the Number of the
Suburbicarian Provinces, as some have thought, which were Included within an
 hundred Miles Compass from the City; and being the proper Diocese of the *Præ-*
fect thereof, are constantly, in the *Code*, both distinguished from these, and from *Ita-*
ly, taken in a peculiar Sense. But hence it's rationally conjectured, that the origi-
 nal of these *Urbicarian*, or *Suburbicarian* Regions, is to be fetched, as oppos'd to
 the Regions, or Provinces of *Italy*; whereof the first express Mention seems to have
 been made two years after; of which in it's Place.

59. Some few dayes passed, we find him Employed in making another Edict,
 which rather more than any other gains Credit to what *Ammianus Marcellinus*
 writes, of his great Propenseness to the Confiscation of Estates, and Punishing of
 Offenders; but especially of the Insatiable Avarice of his Begging Courtiers, which
 seldome is wanting in any Prince his Palace: but these Leeches more abounded in
 his time than any other, and expos'd him to more *Odium* by those Courses they put
 him upon, than the double of what was got thereby amounted to. Two years be-
 fore, being very moderately inclined, by an Edict directed to the People from *Mi-*
lan, he rather relaxated the Severity of former Laws, against the Children, or Po-
 sterity of such Criminals as were put to Death. For as to the Estates of such Per-
 sons, to whom they should fall, the Law was very various in this Point, according
 to the Discretion and Pleasure of Princes. Before the time of *Constantine*, the E-
 states of their Wives and emancipated Children were not at all Distinguished from
 those of such proscribed, or criminal Persons, but all were without any Distinction
 Confiscated; neither was there any Respect had to the Issue, but all forfeited by
 Force of the *Cornelian* Law. This that Good Emperour by a New Law did correct, L. 1. de Bonis
 as most cruel and unequal; but yet such Provision was not made for the Children *Proscriptorum,*
 in general, as *Constantinus* his Son thought afterwards fit to make. Therefore did *Cod. de lib. 5.*
 he ordain, That the Estates of Condemned Persons should fall to their Parents, or *tit. 42.*
 Children, as far as the third Degree; so as the Treasury should not at all inter- *L. 2. ejusdem.*
 meddle; but it should be free for any Person, with that Limitation, to enter upon *Tit.*
 them, to whom by the Civil or Prætorian Law they became due of Course, ex-
 cept in the Cases of High Treason and Magick; concerning which he leaves the Law
 in force, as it stood before. By Sentence whereof the Estates of such as committed
 these Offences were all confiscated, and at all times, except afterward, when a sixth
 part was allowed to their Children, by a Constitution of *Theodosius the Great*.
 As now by the common Consent of Princes, so by the especial Humour and Inclination
 of *Constantinus*, that of Magick is joyned to the other Crime of Treason. For,
 of this he was continually in Fear, and hated it so much, that not only by se-
 veral Laws he testified his Hatred; but as we have already in the History of that
 year observed from *Ammianus*; if upon the Squeeking of a Rat, the sight of a Wee-
 sel, or other Fooleries, any one consulted the Wizards of those Times; he was ap-
 prehended and Sentenced, as a dangerous Person; which Jealousie of his was
 fomented by such about him, as gaped after the Estates of Condemned Per-
 sons.

60. And they Gaped not in vain, for he was apt enough to stop their Mouths. *A.D. 358.*
 But whereas such as had begg'd those Estates were wont to Conceal, as much as they *Datiano &*
 could, the true Value of them; by another Law made the following year, he pre- *Cereale Coss.*
 scribed Rules for Prevention of such Craft; and that he might understand what *L. 3. jud. Tit.*
 he gave for the time to come, He would have an Inventory made thereof, and *Abst. & hæc a*
 sent to him: for, the ordinary Judge, who pass'd the Sentence of Forfeiture, was *Cod. Justin. Da-*
 thereof to Certifie the *Officials* of the *Procurator* of the *Patrimony*; that they, in *tin Cællino*
 the Name of the Emperour, and for the Publick Use, might make a Record of *Consulari Ræ-*
 all such Goods or Lands. He would not trust therewith the Officers of the *tice. Meminit*
 Ordinary Judge, but those of the *Procurator* of the *Patrimony*; which course *Procuratoris*
Valentinian afterward Altered; Resolving to Trust neither the one nor the other sort; *Patrimonii per*
 but Ordained, That first those of the Ordinary Judge should make an Inventory, *Hispaniam Be-*
 and then this Inventory should be Transmitted to the *Officiales* of the *Rationales* *tit. 42. et*
Rei Privata; to whom a Second Inquisition was then enjoyned, that so all fraud *in Notitia Imp-*
 in making Inventories might be prevented, which ordinarily happened in favour *postea memor-*
 of the Parties, whom most People are wont to pity. But by both these Courses *tit. 42. et*
Rationalis Ræ-
Privata per
Com- Hispaniam.

Sect. 4.

He makes a
severe Edict
about the Es-
tates of Cri-
minals.

Command is given, that a Copy be sent up to the Emperour. By this Second Law *A. D.*
he took order, that he might know what he gave away; but by a Third, which *358.*
gave occasion to this Discourse, he made way for a greater opportunity of giving,
though we scarcely call it Charity, which to be sure must proceed from well-gotten
Goods. For now, this year, whereof we write, wherein *Datianus* and *Cerealis* were
Consuls, being the CCCLVIII of our Lord, and the two and twentieth of his
Reign, by another Edict Directed to *Taurus*, of whom we have made often men-
tion, he Repeals that Moderate and Favourable Law, made two years before,
Commanding the Estates of all Persons Condemned, to be Confiscated, without
any Account given why; but that the former Law he had made under a certain
Condition, we know not what, except he mean, if his Pleasure stood to have it con-
tinue in Force, to which Condition, all other Constitutions are obnoxious; For,
those that Make, may both Explain and Abrogate. But his Timorous Humour
Betrayed him to the Crafty Insinuations and Flatteries of his Favourites; yet scarce-
ly to any further degree of Severity than what was Legal before the dayes of his
Father, and Emperours became *Christian*, as we have seen.

*L. 4. ejusd. Ti.
Abrogata est
hæc Lex, etia
postea, à Va-
lentiniano. Vi.
Comment.*

He overthrows
the *Sarmatae*
and *Quadi*.

61. But the *Vernal Equinoctial* being past, provoked by the Insolence of the
Sarmatae and *Quadi*, he set forward from *Sirmium* with a very good Army, and by
a Bridge of Boats passed the River *Ister*, at this time much swolne by reason of a
Thaw. The *Barbarians* expected nothing less, than that he should be so early with
them; and being utterly unprepared to receive him, or make any Resistance, by
shifting for themselves, as they could, they endeavour'd to shun those Mischiefs that
impended; although such as escaped, as ordinarily it happens, might have prevent-
ed the Destruction of their Friends and Relations, and saved their Country from
being overrun, if they had made Opposition, and fought with as much Resolution
and Earnestness, as they ran away. But thus was that part of *Sarmatia* wasted,
which lay nearest to *Pannonia Secunda*, and that Country called *Valeria*, farcd no
better. But the Inhabitants being moved with Shame and Indignation, to see so
great Havock made of their Country; at last laid their Heads together, and the
Result of their Debates was, that they would set upon the *Romans* in no less than
three several Bodies, under Pretence of coming to beg Peace, hoping under that
Disguise absolutely to surprize them. And for the better effecting of this Device,
the *Quadi* assisted their Friends the *Sarmatae*, but with so ill Success, that all were
put to Flight, and miserably slaughter'd, if their Heels did not befriend them. Af-
ter this, it was thought by the Emperour and his Council, as Just, as Prudent, to
invade the Territories of the *Quadi* themselves; and that with the Army reinforced;
but they being taught from Experience abroad what they were to expect at Home,
made timely Applications to *Constantius*, and beg'd Peace. Matters being agree'd
on, and a Day appointed for Performance of the Conditions; *Zizais*, one of Roy-
al Blood amongst the *Sarmatae*, a young man of no small Bulk, perswaded his Coun-
trymen to enter into the same Course; and coming to the Emperour, upon sight
of him, cast away his Arms, and fell prostrate with his Face upon the Ground,
where he lay Speechless out of Fear, and moved more Compassion, than if he had
used many Entreaties. After many Sighs, coming by Degrees to himself, and be-
ing bidden to rise, when he had got the Use of his Tongue, upon his Knees he
beg'd Pardon for his Offences, and when raised up, gave the Sign to those that fol-
lowed him, who with Fearful Looks also cast down their Arms, and with their
Hands testified their Joyning with him; and by whatsoever other Signs they could,
they further expressed their Desires; so joyful were they at the Hope of Pardon,
that to make some Satisfaction for their former Offence, they were content to
deliver themselves, their Wives, Children and Territories into the Emperour's
Hands. But his Benignity, as *Ammianus* himself affirms, prevailed above Equity,
and they were bid to be of good Chear, and still to hold their Lands. So, being
only Commanded to restore those Prisoners they had taken, they returned back
with them they purposed to have left as Hostages, promising for the time to come, most
readily to submit to his Commands.

Disgrace of the
Perry Princes
and Captains
Submit them-
selves, with
their People.

62. This Act of Clemency towards *Zizais*, and other *Subreguli* (as our Writer
terms them) had such operation upon their Neighbours, that *Arabarius* and *Usafer*
speedily came in; two of the most notable Commanders of these Nations, whereof
the one Governed the *Quadi* beyond the Mountains; and the other part of the
Sarmatians next adjoyning to them; such Multitudes they brought along with them
that the Emperour thought fit, not to admit them all together to his Presence, lest
under Pretense of making a League they should break Peace, fall to their Arms,
and offer him Violence; but, parting them asunder, commanded that such as sup-
licated

Sect. 4. plicated in behalf of the *Quadi*, should first approach. They stood there with their bended Bodies, like to humble Supplicants, as their manner was; but were not able to make Excuse for the Outrages they had committed; but apprehensive of the worst thing that could befall them; when unexpectedly they were only commanded to deliver up their Hostages, which they freely did, having never done so much before. After *Arabarins* and his Company, was *Usaser* and his Followers admitted to their Submission, at which *Arabarins* cried out, that he ought to have the Benefit of those Terms he had obtained, as his Associate; though an inferiour, and one that was obnoxious to his Commands. But upon Debate of the Matter, it was thought fit to declare the *Sarmatians* exempt from Obedience to others, as such as had been always the Clients of the *Romans*, and they also were ordered to deliver up their Hostages, which they most readily performed. After this flocked vast numbers of the *Barbarous* People, and their Kings; perceiving how well *Arabarins* was come off, they also obtain'd the Pardon they beg'd, and gave up their Hostages, being chosen by Lot, out of the Sons of their choicest Nobility; and with them such Prisoners as they had taken, whom they parted as sorrowfully with, as their own Relations. But this hapned well for these *Sarmatae*, and brought them into their antient State of Liberty. For, as we have formerly hinted, they had been outed of their Country by their own Slaves, for whom risen up in Rebellion, finding themselves too weak, they fled, and betook themselves to the *Vidobuli*, living at some Distance, and chusing rather to submit to them, as their Protectors, than become Vassals to their own Servants. Now, being received into Favour by the Emperour, they desired their Liberties might be secured, whom pitying, he gave them gentle Words, and ordered they should be Subject to the Commands of none but himself, and his Captains. And to gain him more Reputation, he promoted *Zizais* to be their King, a man, both worthy in himself, and faithful to the Empire; which done, he dismissed them all, but not till such time as all the Prisoners were returned.

Constantius receives into Protection the *Sarmatae*, that had been Expelled by their own Slaves.

The Remains of the *Quadi* submit.

63. From these Quarters the Army removed to *Bregetio*, there to finish the Controversie with the Remains of the *Quadi*, that lived in those Parts; the Princes and Magistrates of whom, seeing so great a Force in the Bowels of their own Territories, followed the Example of the rest, and begging Peace, delivered up their Hostages; then drawing out their Swords, which they worshipped for Deities, thereon they swore, that they would continue in Fidelity. There remained yet the *Sarmatae Limigantes*, or those that had been Slaves to the other, who having committed such Outrageous Villanies, Justice, and the publick Utility required that they should be punished. For, imagining their former Condition, and what they had acted to be quite forgotten; now when they had Children also grown up, to make good what they had unjustly got, they as well as others had entered the *Roman* Pale, in this thing only agreeing with their former Lords, and now Enemies; yet it was resolved they should be more gently dealt with, than they had deserv'd, only be removed farther off, that they might not have so good Occasion to Infest the Empire, which it was feared they would still do, as doubting of Pardon for what they had formerly committed. They were not so inconsiderable but to expect the whole Brunt of the War would be turned upon them, and therefore resolved they would Treat and Intreat both, but with their Weapons in their Hands. And at first they made Show, as if they had been struck with Fear, at the Sight of the Army, and expected nothing but Destruction; they beg'd Pardon, promised a yearly Tribute, both of Money and Souldiers, to remain the Servants of the Empire; and seemed further to be willing to leave the Places they now held, and go further off; for they trusted to the Strength of the Country, out of which they had beaten their Masters. This Country is watered with the River *Parthiscus*, which after many Turnings and Windings, pourses forth it self into *Ister*; but before it comes thither, by degrees it hastens nearer and nearer: and both together they form the Land into a Strait, to the great Security of the Inhabitants. For, on one Hand *Ister* secured them from the *Roman* Coasts, and on the other, *Parthiscus* defended them from the IncurSIONS of other *Barbarians*: The Ground thereto adjoining being also so Fenny, and perpetually Waterish, what by Reason of the Nature of the Soil, and what by the overflowing of the Rivers, that together with an Island lying as a Rampart, almost in the Mouth of *Parthiscus*, these Obstacles barred all men of easie Access.

64. But to prosecute the Story of our *Limigantes*. Upon the Emperour his Call, who it seems, gave too much Credit to their humble Deportment, they came over to the hither Bank of the River, not to receive Commands, but, at length, to show, that

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secr. 4. that they were not afraid to face his Army; and there they stood so Surly and Humourfom, as having come on purpose to refuse what should be enjoyn'd them. The Emperour perceiving their Temper, by degrees so disposed of his men, as to encompass them, and then standing on a Place on purpose to be seen and heard, waited on by some of his Principal Attendants, and his Guards, he gently admonished them to be Quiet. But they fell into Disorder, not well agreeing amongst themselves, and joyning Craft with their Fury, mixed their Desires of Peace with a sort of Stratagem; for preparing for an Onset against the Emperour's Men, they cast their Targets at a great Distance from them, as it were in Jest, that going to take them up, they might gain so much ground. The Day drawing to an End, the Army, with Banners displayed, fell upon them; and they uniting themselves, with grinning Countenances, and menacing words made toward the Emperour, standing still in that Place we mentioned. This the Army not enduring to see, put it self into the form of a Wedge, or, as the ordinary Souldiers in those Days termed it, of an Hog's Snout, and then with great Violence removed them; and *Constantius* his Guard (or the *Prætorian Cohorts*) as they turned themselves to Fight, so belaboured them on their Backs, that they slaughtered them like so many Beasts; but they fell with insuperable Constancy and Resolution, showing by the horrible Noise they made, that they did not so much Bemoane their own Death, as they were tormented to see their Enemies rejoyce therein; and some of them lying with their Hams or Legs mangled, and so unable to Fly, others having lost their Hands, and some not at all hurt by the Sword, but Bruised and Maimed by the Weight of those that fell on them, and ran over them; yet endured their Pains, and concealed them in Silence; not one of them, in all the Torments they endured, asked Pardon, cast away his Sword, or intreated to be dispatched; but holding fast their Arms, though in so much Misery, they esteemed it a lesser Crime to be condemned by the Strength of an Enemy, than the Dictates of their own Conscience; and were now and then heard to mutter, that what hapned to them was by Course of Fortune, and not for their own Desert. Thus in the Space of half an hour passed a brisk Conflict, and that there had been a Fight, the Victory alone declared. But scarcely was it over, when the Relations of those that were slain, of both Sexes, and all Ages, were drawn out of their Huts, and with another sort of Countenance and Demeanour, beg'd that what was past might be forgotten. But the Souldier now Heated, and provoked to Fight, neither spared those he found in this Posture, nor such as escaped from the Engagement; but setting fire to all before him, either burnt such as fled for Shelter to their Houses, or if they fled from such weak Refuges, received them on the Points of their Swords, and Lances. Some that escaped ventured to take the River, but were either drown'd, for the most part, or killed by the Missile Weapons of the Pursuers, and now it was resolved, that this sort of People should be rooted out.

65. This being effected against those they called *Amicenses*, with all Expedition the Army was sent against the other, which, from the Coughtry they possessed, had the Name of *Picenses*, and from the Misery of their Neighbours, took warning to look to themselves. It being difficult to find them out, or come at them by such as knew not the Place, the *Taisali* were taken in as Assistants, and so were the *Free Sarmate*, their Masters. That they might be sure to catch them in one Place, or other, the *Roman* Souldiers chose to range that part of the Coughtry lying next to *Mæsia*, the *Taisali*, that which bordered upon themselves; and the *Free Sarmate* what was most convenient for them, as lying over against their Seats. The *Limigantes*, or Slaves, seeing their Danger, consulted whether they should dye, or yield up themselves, not wanting Arguments on either side; but the Opinion of the elder sort prevailed, that they should submit. Having received then the Publick Faith for their Security, they came down from the Mountains, and flocked with all their Relations to the *Roman* Camp; and there they consented to remove into other Places, where they might live in Peace and Security, and willingly they seemed to accept of these Terms, though, as the sequel proved, they could not forsake their Natural Humour, with the Coughtry; but fell again to their former Fierceness, and mad kind of Life. Matters so well succeeding, the Emperour provided well for the Security of *Illyricum*, and Restored an Injur'd Nation to their former Seats; which done, he set over them as King, *Zizais*, such an one also, as they themselves had made Choice of; hoping, that though they were Fickle enough, yet this would be a Means to oblige them to continue Quiet. The Victorious Army for these Achievements, gave to their Emperour, the second time, the Sirname of *Sarmaticus*, who by a gentle Speech as his manner was, much pleased them, and they return-

the strange
rtnacy of
the Sarmate
Antes, for-
ly their

And the De-
struction of
those called
Amicenses.

The other
sort, called
Picenses, sub-
mit.

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Sect. 4. turned to their Tents with these words in their Mouths, that *Constantius could not be overcome*. Had *Julian* been the Man, we should possibly have heard more of it from *Ammianus*. But, Matters thus settled, *Constantius* returned back to *Sirmium* in Triumph, for which he was afterward Jeered by his Cousin *Julian*. A. D. 358.

Constantius returns to Sirmium.

66. And here we find him about the beginning of *June*, by several Edicts made at that City in this Month. Two of these have relation to Corporations; especially those of *Africk*, to the *Vicar* whereof, *Martinianus*, they are Directed. The one Deprives such as had obtain'd in the Emperour's Court, the Honorary Dignity of *Perfectissimus*, or *Comes*, and Orders them to be returned back to their Duties in such Places; and the second so much denies any Privilege from such Services to Souldiers in the Armies, that the very *Veterani*, or those who had obtained Letters of Dismission, it also Remands back again. About the latter end of *June*, from *Sirmium* he went to *Mursa*, another Town of *Pannonia*, where he made another Law concerning the same Subject, but to be spoken of in another place; and thence returned to *Sirmium* in a short time; where, by other Edicts, it appears, that he continued the remaining part of all this year. The next following, being the Twenty third of his Reign, and of our Lord the CCCLIX, into which fell the Consulship of two Brothers, *Eusebius* and *Hypatius*; he remained at the same place, or thereabout, till near the Month of *June*, where we shall leave him for a while, and visit *Julian* in *Gall*, and see how he there Employed himself in his Winter-Quarters. And there you may be sure, that this Person, Famous for his continued Successes, (for *Ammianus* and *Zosimus* cannot speak of him without such Parentheses and Flourishes though at present he was freed from the Burthen of War, yet was no less Thoughtful for the Safety and Prosperity of the Provinces, diligently observing whether any one was Overcharged in the Publick Taxes; whether Oppressed by Great Men; whether any grew Rich by Publick Calamities; or any Judge was Corrupt or Partial. And yet, as to the last point, there was the less occasion for him to shew his zeal, because he himself Heard and Determined Causes with all Exactness possible, in respect to Justice; whereof, though many Testimonies were at hand, yet our Author thinks fit to Mention one Passage, by that to make an estimate of his other Acts in this very kind. *Numerius*, who a little before had Governed the Province of *Narbon*, was Accused of Rapine before him; and he was so Severe as to hear all that would object any thing; but he Answered, and so well Defended himself, that nothing would stick; at which, one *Delphidius*, a bitter Orator, who was Employed against him, thus Applied himself to *Julian*; *Who can ever be Guilty, if it be sufficient to deny?* To whom he Replied prudently extempore, *Who can be Innocent, if it be sufficient to have Accused?*

How Julian behaved himself in his Winter Quarters.

He marcheth.

67. This, and many other things of the like nature he did, but being now to take the Field, and knowing there were some of the *Almans*, who, having not yet felt the Smart of the War, would in all probability make him more Work, if they were not also Chastised, He considered how he might best come upon them on a sudden. He Dispatched one *Hariobandes*, a *Vacant Tribune*, as they called him, a man of Approved Fidelity and Valour, upon a Message, as was pretended, to *Hortarius*, a *German King*, with whom he had Peace; that under that Pretense, the Messenger might step into the Countrey of those he intended to Invade, which was near at hand; and being well skill'd in their Language, Discover their Intentions and Practices in order thereto. While he was about this Work, *Julian*, having Rendezvouz'd his Army, marched first to such places upon the Borders as had been Demolished in the Wars, to take care for Rebuilding the Towns, and especially Repairing the Publick Granaries, therein to lay up the Corn that he sent for out of *Britain*; and this was vigorously prosecuted, and in good time well Effectuated; the Store-houses being both Repaired and Replenished, and these seven Towns Reinforced, viz. *Castra Herculis*, *Quadriburgum*, *Trictisma*, *Nivesio*, *Bonna*, *Antennacum*, and *Bingio*. For, the *Barbarians* themselves, according to the Agreement of the preceding year, though more out of Fear than Love to the Commander, sent Plenty of Materials; and the Auxiliary Souldiers, who were wont to scorn such Employments, were yet so won upon, by the obliging carriage of *Cesar*, that they willingly put their shoulders and hands to the Work, both bearing Burthens, and serving otherwise in the Building. *Hariobandes* having fully informed himself, return'd, and gave an Account how Matters stood: whereupon *Julian*, further strengthened since his Departure, by the coming of *Florentius*, the *Præfatus Prætorio*, who brought both a good Party of Men with him, and Provisions enough for a long time; set forward, and came to *Moguntiacum*, or *Mentz*, where *Florentius* and *Lupicinus*, the Successor of *Severus*, the one after the other, contended, that there

Sect. 4. there he should pass the River by the Bridge: but *Cæsar* by no means would be brought to it; alleaging, that the Territories of those that were now their Friends, they ought not to enter; lest the Souldiers, as their Manner is, should commit any Disorders, and thereby the Peace be broken. And all the *German* (or *Almans*) thereabout were so concerned at the Approach of the Army, that they came to King *Suomarius*, who had made his Peace before, and in a Menacing manner Commanded him to hinder the *Romans* from passing the River, for they were his Territories that lay next to the Bridge, on the *German* side. A. D. 359.

By a Stratagem
Invades
Germany.

Which con-
strains several
Princes to sub-
mit.

68. He protested, that of himself he was not able to do it; whereupon they all gathered together, and in great Multitudes stood over against *Mentz*, with all their Power to hinder *Cæsar's* Passage, whose Council now appeared to be very reasonable. As he marched from *Mentz*, they also observed his Motions near the *Rhine*, and where they perceived he incamped himself, there sat down over against him; taking no Rest, but still observing him, lest he should get over. But when he was come to the Place resolved on, consulting with *Lupicinus*, he gave order to certain *Tribunes* to make Choice of three hundred men with Stakes, without acquainting them what they should do, or whether they should go; but being put aboard the forty publick Vessels, which lay in the *Rhine*, called *Naves Lusoriae*; they were Commanded, without making the least Noise, with Oars to get to the further Bank, and there Land, while the *German* still watched the Fires that burnt at the Camp. In the mean time *Hortarius*, both Friend to the *Romans*, and to his Neighbours, without any Design, had invited all the Kings and petty Princes to a Feast, which according to the manner of the Nation (at this time pretty well inclined that way) they continued till the third Watch of the Night. The *Romans* being Landed, by chance fell upon them, as they departed; but could not Kill, or take any one, they making their Escape by the Darknes of the Night and the Swiftnes of their Horses, but slew some of their Servants that followed on Foot, whom the want of Light did not Conceal. But upon the Noise now that the *Romans* were Landed; they that so unanimously resolved to hinder the making of a Bridge, as well Kings as People, all ran away, and endeavoured to remove their Goods and Relations further into the Country, giving the *Roman* Army free Passage. Through the Territories of *Hortarius* they passed without giving the least Offence: but coming once to touch those of the Kings, that still continued Enemies, they burnt, and kill'd all before them passing without Opposition through the Countreys. After much Mischief done in both kinds, they came to a Place called *Capellatium*, or *Palus*, at the Confines of the *Almans* and *Burgundians*, and there incamped, to receive *Macrianus* and *Hariobaudus*, two Kings, and Brothers; who perceiving Destruction to draw very near them and theirs; in great Anxiety came to be reconciled, whom followed *Vadomarius*, another King, formerly received as a Friend and Client of the *Roman Empire*. The Matter was debated in a Council of War, and *Macrianus*, with *Hariobaudus*, his Brother, was admitted to make his Peace: but whereas *Vadomarius* came to intercede for *Urnus*, *Urseius* and *Versalpus*, three of his Neighbour Princes, it was not thought fit at present, to shew them the same Favour; lest, being according to the Humour of the *Barbarous* Nations, Fickle; after the *Romans* were departed, they should make little Account of what was obtained by the Intercession of another. Yet when after their Corn, and Houses were burnt, and many of their People slain; they again sent, and owned themselves to be in Fault. Peace was Granted upon Terms; whereof the most Important, and pressing was, that they should restore also those Captives, which they had taken in their frequent Incur-
sions.

69. While the heavenly Providence thus corrected what was amiss in *Gall*, as our Writer observes, new Disturbances hapned in the Emperour's Court; which from small Beginnings so far proceeded, as to end in Sadnes and Lamentation. There hapned at the House of *Barbatio*, then *Magister Peditum*, a Swarm of Bees; at which Prodigie, you must know, much concern'd, he solicitously consulted such as were skilful in so great Mysteries, and had for Answer, that it portended some great Danger, because that sort of Creature is driven from it's Habitation, and Wealth it hath heaped together, by Smoak, and the Tinkling of Metals. He went his way to the Field in great Anxiety and Fear; but left behind him his Wife, *Affyria* by Name, a Tattling and Imprudent Woman; who taking the Matter in good Sense for her Husband, but a bad one for her self, wrote to him a Letter by the hand of her Maid, in a weeping Style; beseeching him, that after the Death of *Constantius* now approaching, when he should be advanced to his Place, (as she hoped) he would not despise her, and marry *Eusebia*, the Empress, for her extraordinary Beauty, wherein she excel-

Sect. 4.

Barbatio, and
his Wife put
to Death
through her
folly.

excelled most other Women. The Letter was as Secretly conveyed to him, as could be, but the Maid that wrote it, cunningly kept a Copy; and when all were returned to their Winter-Quarters, ran away with it by Night to *Arbetio*, to whom it was not a little Welcome. He, who was ever greedy of such kind of Work, brought it to the Emperour; and thereupon the Parties were examined, who both confessed; he, that he received it, and she, that she wrote it; for which Crimes they were both Beheaded. But the Inquisition did not here rest: many, as well Innocent, as Guilty Persons, being brought into Trouble: amongst whom was one *Valentine*, that had been a *Primicerius* of the *Præfects*, now a *Tribune*; who being much tortured would not, because truly he could not, confess any thing; for he was an absolute Stranger to the thing, as to which *Constantius*, at length satisfied, made him amends, by preferring him to the Dignity of a *Dux* in *Illyricum*. As for *Barbatio*, there was scarcely any one that pittied him, being a man of a Surly and Arrogant Behaviour, and upon that Account hated by many. Having the Oversight of the *Domestick Protectors* under *Gallus Cæsar*, he was to him False and Perfidious; and after his Death, when preferred to so eminent Place in the Army, he feigned the like Crimes against *Julian*; and to the Regret of all Good men, frequently suggested to the Emperour, whose Ears were open to all such Matters, cruel things, not knowing that wise Saying of *Aristotle* to his Disciple, and Kinsman *Callisthenes*, when he sent him to *Alexander*, that he should converse as seldom as he could; and when he did it acceptably, with him, who carried the Power of Life and Death on the Tip of his Tongue. To this Story of *Callisthenes* thus applied, *Ammianus* adds another Observation; that not only men, the minds of whom may be believed, to be akin to Heavenly Bodies; but even other Animals, though they want Reason, yet are taught by Nature to keep Silence, when their Safety is thereby preserved; as it appears, saith he, by one well known Example. The Geese leaving the Eastern Parts, because of the Heat, and flying to the *Northern*; when they come to the Mountain *Taurus*, which abounds with Eagles, being in fear of those valiant Birds, they stop their Beaks with Stones, on Purpose, that the greatest Necessity may not draw from them any Noise, which might Discover them; but when they are over, and past the Mountain, they immediately let them fall again, and so securely prosecute their Journey.

70. But, besides these Matters of Jealousie and Punishment, we find *Constantius* employed at this time about other Affairs. And first, we must take Notice of an Edict made now by him, than which scarcely any one Law hath given greater Occasion to learned men of late time, to exercise their Critical Wits. *Constantine* the Great, had formerly thought fit to exempt his Patrimonial Lands, and those called *Fundi Emphyteutici*, which lay in *Italy*, from extraordinary Services, as well as those that lay in *Africk*, and that they should be only Subject to the ordinary Payments of Tributes, or of the *Species Annonariae*, and *Cellarienses*, formerly mentioned. Now by another Edict directed to *Taurus*, the *Præfectus Prætorio* of *Italy*, and proposed at *Rome*, on the seventh before the Calends of *March*: *Constantius* his Son ordains, That this Privilege, after the Examples of *Africk*, and *Italy*, be also extended to those kinds of Lands lying in the *Urbicarian* Regions, and in *Sicily*. What the Prince his Patrimonial Lands were, the Reader may understand, by what we have formerly said of his Patrimony, and the Officers belonging to it, as the *Rationales*, and *Procurators*. As for the *Emphyteutici*, or *Emphyteuticarii*, they were those of them, that were granted out to private Persons by way of an *Emphyteusis*; that is, for such to hold them for ever, provided they paid so much as was requir'd (Canon they termed it) for an Acknowledgement; and they were usually Barren Lands, which these Persons were to Cultivate and Manure. But this Matter the present Nature of our Work allows us not to inquire further into; but to take Notice of several other things very notable in this Law, and proper for our History. As first, at this time there were these four remarkable Provinces in the Diocese of the *Præfectus Prætorio* of *Italy*, distinct, and several, viz. *Africk*, *Italy*, the *Urbicarian* Provinces and *Sicily*; agreeable to what *Zosimus* writes, though not with such Distinction, concerning the first Institution of this *Præfecture* in the Time of *Constantine*; although neither doth that Prince appear to have been Author of the four *Præfects*. In the second Place, and especially, are to be taken Notice of, the *Urbicarian* Regions, Separate and Distinct, as from *Africk*, so from *Italy*, and from *Sicily*. Now the *Urbicarian* Regions were those Countries lying within an hundred Miles of *Rome*; and *Italy*, (when no more is added) signifies in the Constitutions of Princes, all the remaining Parts of *Italy* lying beyond them. And it is as important (almost) to take Notice, that in this Law is the first and most antient Mention made of these

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L. L. 1, 2. de
Extraordinariis
vis. Cod. In. ubi
supra.

L. 9. de Extra-
ordinariis ser.
Ab ill. hoc Lex
a Cod. Justin.

Vide Gothofredum
in Legem.

Constantius
makes a Law
about the Ex-
emption of
his Lands
from extraor-
dinary Servi-
ces.

The *urbicari-
an* Regions,
which.

Sec. 4. *Urbicarian* Regions, which occurs nowhere before in the time of *Constantine*; whereof this may well be taken for a Reason, that about this time *Constantius* brought up this Division and Distinction, for settling the several Jurisdictions of the *Præfectus Prætorio* of *Italy*, and the *Præfect* of the City in the Point of Appeal, as was noted a while ago; whereas formerly the *Præfect* of the City received Appeals, or challenged them out of all the Regions of *Italy*. But now *Constantine* confined him within his peculiar *Diocese*, and brought up this new Appellation of the *Urbicarian* Regions, as being the *Diocese* of the City it self, whose *Præfect* should only within it, by his Order, have this kind of Jurisdiction. And indeed at this time, as *Gothofred* further observes, peculiar Governours seem to have been given to the *Urbicarian* Regions, or Provinces, as namely to *Tuscia*, and *Picenum*; though afterward, they became again united with the *Provinciae Annonarie*, of which heretofore. This Law was proposed to view at *Rome*, because it belonged to it's *Diocese*. Further, *Sicily*, *Sardinia* and *Corfica* are mentioned by *Zosimus*, as in equal Right under the *Præfectus Prætorio* of *Italy*. But here *Sicily* is separated from them, as alone enjoying this Immunity, though all three had but one *Rationalis*. And neither is it reckoned here as United to the *Urbicarian* Regions, nor yet to *Italy*, which afterward it was.

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Other Edicts
in Reference
to the Persian
War.

71. On the fourteenth of *March* he made another Edict, directed to *Helpidius*, the *Præfectus Prætorio* of the *East*, relating, as we may easily guess, to the War now again drawing on against the *Persian* (of which shortly;) and Commanding that the Souldiers should carry with them Provision for twenty dayes March, out of the Publick Store-houses. This Quantity of Victuals for just so many dayes, we lately observed *Julian* to have Ordered his Souldiers to take along with them in their Expedition against the *Germans*, and that from *Ammianus Marcellinus*, who calls it *Buccellatum*, which was Bisket, or a kind of Bread, but lighter than the ordinary sort, and which would keep a longer time. The Souldiers were wont in Expeditions to take this *Expeditionalis Annona*, as the Law calls it, along with them, (yet the old custom was but for seventeen dayes) and *Ammianus* saith, they carried it on their Backs. But, besides this Edict, he Directed two others, concerning this same Subject, and to the same Person, *Helpidius*; and therefore we may well conclude, upon the same occasion of the *Persian* War, which we shall here add, though the one was made the year going before this whereof we write, and the other in that which followed it, because it will not be unprofitable to the Reader to know the Usages of the *Romans* in these particulars. The first was Dated not three Months before that of which we now speak, and but four dayes before the beginning of the very year; and Commands, That when the Souldier is in Expedition, he have allowed him two dayes together the *Expeditionalis Annona*, and on the third day Bread and Wine. By *Annona*, the same with *Buccellatum*, or the Ammunition-Bisket, is meant, to which is to be added Vinegar; for, as the one is opposed to their common and ordinary Bread, so the other to Wine, which they had usually in their Quarters, but not so in their Marches, because of the convenience of Travel, as is most probable, the one sort being much lighter than the other; but as for Vinegar, it seems added for Drink, being mingled with Water, and also perhaps to give a grateful Taste to the Bisket, and make it go down; which kind of Fare, the *Turks* at this day, out of their great Humanity, afford to their poor Gally-Slaves, to whom, when they Row very long, they give every man in his Wooden Bowl, that stands by his Chain, some Vinegar, wherein to sop his course Bisket, as a great and cheering Dainty. But in such manner did *Constantius* order the Fare of the Souldiers by this Law, as gave him no great Encouragement for so long and tedious an Expedition; for instead of Encouraging, he cut him short of the usual Allowance, which afterward he found reason to alter, and by another Edict to prescribe another course of Allowance, thereby Repealing that scant and uneasy Law. In this he tells *Helpidius*, That frequent Custom shewed, "how the Souldiers were wont in the times of Expeditions, to have allowed them, "both the Bisket (or *Buccellatum*) and Bread, as also both Wine and Vinegar; "and moreover, both Lard and Mutton, all in this Order: For two dayes together the Bisket, on the third day Bread; one day Wine, another day Vinegar; one day Lard, and Mutton for two dayes together. These Laws were Enacted in reference to the *Persian* Expedition: Now for the War it self.

72. *Prosper*, *Speſtatus* and *Enſtachius* being sent Ambassadors, as formerly was said, to the *Persian* King, presented the Emperour's Letters to him, now returned to *Ctesiphon*, and urged him, thereupon to make a Peace; though they kept themselves so close to their Instructions, and were so careful for the Honour of him that sent them,

L. 5. de Erog.
tione Anlit.
Annonæ Cod.
Th. Lib. 7.
Tit. 4.
Abest à Cod. J.
fin.

L. 4. de Erog.
Dat. Dovidæ.
Kal. Jan.
Abest à
Cod. Justin.
L. 6. de Erog.
Dat. 15. Ka.
Jun. Hærap
Constantio 10
et Juliano C.
3. Coss.
A. D. 360.
Lex 1. Cod.
Justin. cod. Tit.

Sect. 4.

the Persian
ing resolute
have Arme-
ia and Meso-
tania.

them, that they offered no unworthy or mean Terms; but required, that he would Engage in no Course that should tend to the Disturbance of *Armenia*, and *Mesopotamia*. But they found *Sapor* so obstinate in that point, that except he might have those Countreys surrendred to him, he would yield to nothing: and therefore having long stay'd, and press'd the Matter, but in vain; they returned, and to see if they could speed any better in their Exrand, two others were sent in their Room, which were *Lucilianus*, a *Comes*, and *Procopius*, a *Notary*, at this time; but who was afterward by Necessity driven upon such High Undertakings, that we shall then hear too much of him. Neither were their Endeavours so effectual as to prevail upon that Resolute King; who burning with a vehement Desire of enlarging his Dominions, made all Preparations he could against the Spring; and, as if he desired to fight against *Constantius* his Humour, as well as his Person and Territories, consulted Wizards about the Success, and what would after happen, than which nothing was wont more to discompose and vex the Emperour. What Disturbance was wrought upon him by hearing of this Practice of *Sapor*, we know not; but his Jealousie was supplied, and fed at that time by other Suggestions. For when the News of the *Persian* Preparations was come to Court, and all were in Suspense and Fear; the Fabrick, called the *Comitensis Fabrica* (viz. they that were Chief in *Comitatu*, or about the Emperour) which always, both Night and Day, as our Historian breaks the Jest, hammered upon the Anvil what *Eunuchs* pleased, accused *Ursicinus*, the *Magister Equitum*, to him; as one, who after the Death of *Sylvanus*, when there was none left to take Care of the *Eastern* Provinces, designed no less than to set up for himself. This they did to gratifie *Eusebius*, the *Præpositus Cubiculi*, the only man with *Constantius*, and who plotted the Destruction of *Ursicinus*, both because he alone was Independent of him, and needed not his Support, as the rest did; and also because he would not part with his House at *Antioch*, which he most earnestly Coveted. For these Reasons he caused the *Cubicularii* (as those that were under his Charge, and by their nearness to the Emperour, had full Opportunity to inflame his Jealousie) to instill Suspicions continually into his Ears against that valiant Man. Here *Ammianus* tells us, he cannot but commend *Domitian* himself, who, though by a Demeanour so unlike to those of his Father and Brother, he blemished his own Memory, and contracted an inexpressible Detestation of his Name; yet was Famous for one most received Law he made; *Whereby he forbad, that any Boy should be Gelded within the Bounds of the Jurisdiction of Rome*; which if it had not happened, saith he, how could the Swarms of those Creatures have been endured, the very small number of which cannot be borne.

Eusebius, the
Præpositus Cu-
biculi, Plots
against *Ursici-*
nus.

Domitian his
Law.

One *Antoninus*
injured by the
Great Officers.

73. But *Eusebius*, and his Complices were so cunning, that for Fear *Ursicinus* being again sent for, out of Apprehension of Danger, might do really, what they but feigned he had a Design to do; they thought the Matter was to be kept Secret, till a convenient Opportunity could be presented of putting him to Death, which while with some Impatience they expected, another Mischiefe of no small Consequence beset the Empire. There was one *Antoninus*, formerly a Rich Merchant, afterwards an *Apparitor Rationarius*, but at present a *Protector* belonging to the *Dux of Mesopotamia*; a cunning Man, and very well versed in Business, who by several of the great ones being oppressed, could obtain no Justice against them; the Judges being still inclining to favour those in Power, so that perceiving there could nothing be done, he confessed a Debt, which his knavish Creditor transferred to the Treasury. But now designing in his head a profound Revenge, he began to search out all the Intrigues of the Empire, and being skill'd as well in one as the other Language, he inquired into the whole State of the Army; of what Numbers the several Parties consisted; of what Strength they were; where they Quartered, and who Commanded them in times of Expedition: as also about Arms, and Provisions, whence, where and how they were furnished. Having fully informed himself, when the Day of Payment of the Debt drew near, which the *Comes Largitionum* very rigorously exacted, he resolved with all his Family to fly to the *Persians*. And that so doing, he might escape the *Stationary* Souldiers, he bought a piece of Land, of no great Value, in a place called *Hiaspis*, lying upon the River *Tigris*; which being known, he was not at all suspected, or question'd, for going to his own Estate. On the other side of the River lay those *Persian* Territories, which were governed by *Tam Sapor*, one of the *Satrapa's* formerly mention'd; with whom, being formerly known to him, he held now Intelligence by some skilful in Swimming, being such as he could Trust, who in the Dead time of the Night, sent Boats, and fetch'd him over, with his Wife, and Children. Being conveyed to the King; as formerly *Mahabal* Blamed *Hannibal*, he often told him, that he knew how to get, but not how

Flies to the
Persian King.

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to use a Victory; instancing within the Memory of Forty years, in several Passages; as after the Battels of *Hilcia* and *Singara*, especially in that bloody Battel fought by Night; so great a Slaughter having been made, he neither fell upon *Edeffa*, nor seized on the Bridges of *Euphrates*, as the Conquerours in Prudence ought to have done; especially the *Romans*, at that time, being embroyl'd in Civil Discords. These, and many other things he Discourfed at Meals, while the *Persians*, after the manner of the *Greeks*, consulted of War and other Serious Matters; and thereby Inflamed the *Persian* King with an Earnest Resolution to do his utmost the following year: and he made all sutable Preparations, being Encouraged by the Skill and Promises of so understanding a Fugitive.

A. D.

359.

Ursicinus sent for to Court, and an unfit Person sent in his room.

74. In the mean time the Design against *Ursicinus* went on at Court, where the Emperour's Followers, by the especial Assistance of *Eunuchs*, brought the Plot against him to some Perfection, &c. that sort of Creature being over-greedy and Ravenous, and themselves capable of no Children, most Feivently, (as *Ammianus* observes) embraced Riches as their Darling-Daughters. And it was Resolved, that *Sabinianus*, a Decrepit, Old man, well-money'd, but Lazy and Feeble, hitherto thought too obscure for such a Dignity as that of *Magister Militum*, should, in his room, be sent to Govern the *Eastern* Parts; he being called to Court under pretense of Succeeding *Barbatio*, in the Command of the Foot; that so being greedy of Innovation (as they affirmed) he might be Exposed to the Observations, and Arts of his greatest Enemies. *Sabinianus*, Elevated by his New and Unexpected Dignity, went to his Charge; and being come to *Cilicia*, gave the Emperour's Letters to his Predecessor; the purport of which was, that he should hasten to Court to receive a greater Preferment, at that Juncture of time, when, although he had been absent, as far as *Thule*, there was great need of his Return, who had had so great Experience in the Conduct of Military Matters; and especially in what concerned the *Persian* War, which was now pressed upon the Empire. The Rumour being spread abroad, that he was Recalled, the several Cities and Countreys concerned, by their Unanimous Desires, and Cries, would needs stop him, beholding him no otherwise than as their Guardian: for they called to mind, how, though he entred upon his Charge with Forces of no value at all; yet had he preserved his District, and lost nothing for Ten years together; and they very much suspected their own Safety, being now to be Protected by a very Coward, and that in so Critical a Time as now was coming. But strange it is, that the Report of this Designed Alteration should so speedily fly into *Persia*, (our Writer tells us he doth not doubt but swift Fame flies through the æry paths) where a great and serious Consideration being held thereupon, by the Advice of *Antoninus* it was Resolved, That seeing so unfit a Person was to Succeed *Ursicinus*, they should take the fair Opportunity now offered, and passing by the Towns standing upon the Borders, march with all convenient speed into those Countries under his Conduct, and seize upon them, the greatest Atchievement of all others; they having never been touched since the Dayes of *Gallienus*, and by reason of the long Peace they had enjoyed, abounding with all things.

Hence the *Persian* takes heart.

Ursicinus ordered to return into *Mesopotamia*, without a Guard.

75. In the mean time, *Ursicinus* and his Followers, (amongst whom was *Ammianus* the Historian) having staid a little on this side the Mountain *Taurus*, halted, according to the Orders receiv'd, towards *Italy*, and were come as far as *Hebrus*, a River falling down from the Mountains of the *Odrysæ*. There he received other Letters from *Constantius*; requiring him without Delay to return into *Mesopotamia* without any Guard, for that the Power was put into another man's hands; which his Enemies contrived for this Reason; that in case the *Persian* returned without any thing done, the Honour of the Defeat might be Ascribed to the New Officer; but if he prospered, the Miscarriage on the *Roman* side might be imputed to *Ursicinus*, as a Betrayer of his Countrey. Being thus tossed up and down, without any good reason, yet he obeyed after some Dispute; and being returned, found his Successor very scornful, a man of mean Stature, and as narrow a Soul; so far from being fit to manage a Battel, that without Fear and Trembling he could scarcely hear the Contentions, which occasionally happened at the Table. One Messenger still Confirming what another brought concerning the great Preparations of the *Persians*; it was Resolved to march to *Nisibis*, lest the Enemy, however looking another way, should make an unexpected Attacque upon it. Whilst they were Fortifying the Place, the great Fire and Smoke seen from the Walls through the Countreys lying near to *Castra Maurorum* and *Sisera*, which grew greater and greater, as they nearer approached, gave warning evident enough, that the *Persians* had passed

The *Persians* pass by night.

m
 Sect. 4. passed *Tigris*. *Ursicinus* then with some Forces went to Coast about the Country, and give such Order as he saw convenient, for Prevention of so great Mischiefs as impended: and it was thought fit, that the Inhabitants should be compelled to quit the Country of *Mesopotamia*, and Retire, with all they could, into the strong Holds; to leave *Carra*, a City not tenable, the Walls were so much decayed; to set all the Corn and Grass on Fire, and fortifie the hither Bank of *Euphrates*; so as the Enemy might find no easie Passage; and the Autumn being so far come on, that the Corn was now turned white, the Fire took and burnt up all; so that the *Persians* could find no Forage, nor any Ford to pass the River; till by *Antoninus* the Fugitive, they were led more unto the Right Hand, where there was Grass and Corn enough, and the River near it's Head, was not so swoln with the melted Snow, which lower down in abundance fell upon it. The *Roman* Troops light amongst those of the *Persian*, and *Ursicinus* had the Fortune to see *Antoninus*, whom, having espied, he Reviled as a Villain and a Traytor; but he not endeavouring to conceal himself, Leaping from his Horse, took the *Tiara* from his Head, which had been given him as a Badg of the greatest Honour, bowed himself near to the Ground, and giving him the Titles of Patron and Lord, holding his hands behind him, as the Custom for Supplicants was in *Affyria*, prayed him to pardon him; for that he was engaged in a Course he knew to be naught, not by Choice but Necessity, through the Avarice of some Rapacious Persons, against whom he himself could not but remember, that his high Place and Power was not able to protect him. Which said, he withdrew himself, not turning his Back, but going backward, till out of Sight; as the Custom was in those times, and since hath been practised by the *Eastern* and *Northern* Nations.

Id erat Ornamentum ex diadema & Margaritis contextum, quo Persarum Magnates Reges permuliebant.

76. *Sapor*, the *Persian* King, attended by *Grumbates*, King of the *Chionitæ*, besides the King of the *Albani*, and followed by a vast Number of men, took two *Roman* Castles, called *Reman* and *Busan* by Surrender, and to those he found therein, shewed himself very merciful, to obliterate the prejudice which his former Cruelties had procured against him. Thence pursuing his Design, on the third Day, he came to *Amida*, where he did not think of making any Stay; but resolved to pursue those Councils that *Antoninus* had suggested. For he concluded, that those within, at the first Sight of him would not dare to hold out; and he in Person rode to the Gates, on Purpose to be seen, having his Guard about him, and wearing on his Head an Ornament of Gold, resembling the Head of a Ram, all glistering with Gems, for a Diadem. But with this Sight the Defendents were not so dismayed, but that while he pressed on, they had the Courage to let flie at him, and there he had perished in his Gaiety, if the Dust had not intercepted their Sight; so that he escaped with Loss of part of his Robe cut from him by a Javelin; though sufficiently enraged: for he exclaimed against them, as equally Criminals, with those that had Sacrilegiously robbed some Temple, in that they had offered Violence to the Majesty of him that was Lord of so many Kings and Nations; and most earnestly was bent to destroy the City, as contaminated by so great guilt, till by the gentle Insinuations and Petitions of his Captains, he was mollified, who besought him, that together with that Town, he would not Sacrifice the Hopes of so great an Enterprize, as he had undertaken, to his Anger. Next day therefore he resolves to summon the Place, and for that Purpose *Grumbates*, King of the *Chionitæ*, goes with a Company that offered themselves, towards the Walls, whom as a skillful Engineer saw approaching, he levelled, and let flie at him, and though he mist his Person, yet he killed his Son; a Goodly, Proper Youth, that went close by him. With this Accident such as were present were so struck, that they all ran away; but conceiving themselves obliged to fetch off the Body, again returned, and by their great Cries and Lamentations, provoked those other sorts of People that were with them to do the like. Now followed a most deadly Contest, the Darts and other missile Weapons flying like Hail, and till Night it continued, by the Darknes whereof covered, at length they got off the Body, drawing it over Heaps of other Carcasses, and through Rivulets of Blood, and celebrated the Funeral, according to the Rites of his own Country, in this manner. He was placed armed, as he was wont to be, on an high and large Scaffold, and about him ten Beds, whereon lay so many Images, so well ordered, that they represented Bodies already buried; and for seven Dayes together, all the men that lay at their Quarter Feasted, and Danced, and Chanted certain Songs, whereby they bewailed the deceased Prince, while the Women in the mean time, with miserable Lamentations complained, that the Hope of their Nation was cut off in the Flower of his Age. This Solemnity finished, the Body was burnt, and the Bones put into a Silver Urne, which the Father had intended

take two
Roman Castles,
and proceed
to Amida.

Which, *Sapor*,
conceiving
himself affronted,
resolves to Destroy.

Grumbates,
King of the
Chionitæ dis-
covering, goes
to Summon
the Town, and
kill his Son
ill'd.

his Funeral, af-
ter his own
Country man-
ner.

Ammianus lib. 19.

Sect. 4. tended to be sent to be buried in his own Country: but it was resolved, upon a Consultation, that by a Funeral Pile of this City it self, a Parenation should be further made to his Ghost; neither would *Grumbates* suffer the Death of his only Son to go unpunished. A. D. 359.

It's resolv'd to Sacrifice the City to his Ghost.

The manner of the Siege.

A violent Attacke,

Renewed without Success.

Ursicinus willing, but not able to Relieve it.

A notable Attempt of the Persians miscarries.

77. After a Repose of two Days, wherein yet a Party was sent out to waste that Fertile Country, round about, they began their Work; when early in the Morning from the Walls no Prospect could be had, but that of Armed men, disposed to several Quarters of the Town. The *Persians* lay round about it. The *Chionite* had their Post toward the East, where the Prince was kill'd; the *Vertæ* lay toward the South, the *Albani* to the North; and to the Guard of the Western Coasts were Assigned the *Segestanti*, of all others the most Warlike, and further strengthened by a Company of Elephants, terrible to behold. Now did they within think of nothing, but how to dye with most Honour, the best thing they could hope or wish for. From Sun rising to it's setting, the Army stood in that Posture of facing the Town, not in the least stirring, nor so much Noise, as that of the Neighing of an Horse being heard; and their time once out, they retreated again to their Camps, where they refreshed themselves with Meat, and Sleep. But when it was almost Day, the Trumpets sounded, and they again begirt the Place, which looked as if it would have been shouted down to the Ground by so great a Multitude; and when *Grumbates* cast up his Lance, besmeared with Blood, as the Manner of his Country was, they instantly attacked the Walls; and a dreadful Fight ensued; the Besiegers with all Alacrity giving the Onset, and the Defendants with as much Resolution receiving them, and defending themselves with Engines, Arrows, and as otherwise they best could; so that on both sides vast Slaughter was made, and all the Day it continued; neither could Night it self force them to give over, so eager were they and obstinate in the Prosecution of what they desired, continuing in their Arms all the Night. The Hills echoed again with the Noise, while the *Romans* extolled the Virtues of their Emperour *Constantius*, as the Lord of the World; and the *Persians* roared out, that *Sapor* was *Saansaan*, and *Pyrotes*, whereof the one signifies King of Kings, and the other Conquerour in Wais. Before it was light the Alarme was again sounded to renew the Storm, and Innumerable Companies flocked together; so that at Day-Break nothing could be seen throughout the Plains and Vallies, but the glittering Arms of these savage Nations. With a great Shout they gave the Onset, and the whole day this second Dispute also continued; when the Numbers of Wounded on both sides were so great; that the ensuing Night had now that Operation upon them, which the preceding could not effect; for the Besiegers drew off, and they all applied themselves, as well as they could, to cure their Wounds, of which there was a sad Spectacle in the City. *Ursicinus*, though much disclaiming, that he was subjected to the Command of another Person, especially such an one as was *Sabinianus*; yet sent to him, and advised him to bring his *Velites* into the Field, that they might take such Advantages, as were presented, and fall in upon the Enemies Trenches on a sudden, or intercept him by Stratagems, as he removed from Place to Place. But he refused to do this; pretending publickly, that his Instructions were to act only in such Wayes and Methods wherein the Army could not be endangered; but indeed, he remembered what secretly had been agree'd on, betwixt himself, and those that procured him the Command, to cut off all Occasions whereby his Predecessor, who ever burned with Desire of Glory, might do any thing that would procure him Honour; though the Provinces lay at the Stake. Therefore could he doe no more, than often to send abroad his Espials, to know the Condition of *Amida*; though they could not come near the Town; and other things he attempted, but, being without Power, to no Effect; and so fretted and tired himself, as a Lion, how Big and Grim soever, seeing his Whelps caught in a Net, Fomes and Rages; but dares not go in to their Relief, being deprived, both of his Claws and Teeth, as *Ammianus* frames the Comparison.

78. But, to other great Difficulties wherewith the besieged struggled, this also was added; that by reason of the great Multitude of dead Carcasses lying in the Streets and Pallages, greater than could presently be buried; such a Stench arose, as joyning with the Heat of the Season, and the Infirmary under which the People laboured upon other Accounts, it bred a Pestilence; but this again was asswaged, the Air being tempered by some Rain, which fell on the Night that followed the tenth Day of the Siege. Now with more Vigour than ever, to attacke the Place the *Persians* raise many, and great Mounts and Turrets, on which they set their Engines to batter the Walls, and there being a Descent from a Tower down a steep Rock, by Staires; some seventy Archers of the King's Guard, and bolder than their Fel-

sect. 4.

Two Legions
Galls trou-
some in the
ry, and will
eds make a
lly.

all of a great
sign.

Truce for
ree dayes.

nother On-

Fellows, upon Discovery thereof, made by a Fugitive, got up into the Tower, and thence shewing themselves, put the Besieged into great Fear; all the Army at the same time, as had been designed, giving a fresh Onset; but five of the smallest Battering Rams being levelled against these Adventurers, did such Execution upon them, that some were killed, and the rest, wounded or scared, fell down the Precipice, and miserably perished. This Success much Animated the Besieged, who now removing the Engines to their former places, with much more Alacrity and Ease defended the Walls: but they had hereby the more leisure to see that which very much Afflicted them, viz. a great multitude of People miserably led into Slavery, out of several Forts in the Countrey; into which, for security, they had flocked at this time of Danger; many of whom, of both Sexes, being spent with Travel, and not able to hold out, they cut their Hamstrings, and left them behind in the Roads. There were in *Amida* two Legions of *Galls*, which formerly had belonged to *Magnentius*, very stout, and swift of Foot, and therefore fit for any Combat on plain ground, but for Defence of a Town very improper; nay, they did more Harm than Good: for giving no Assistance, either in the raising of Engines, or other Works upon the Walls, they hindered others; but they would make Sallies, without either Fear or Wit; and, though Fighting with all Confidence and Courage imaginable, often came short home; and when the Gates were to be kept shut, and the *Tribunes* desired them to Forbear, they would rage exceedingly: But now beholding the Drove of Miserable People, they were more earnest than ever, to be out, and threatened with Death the Officers and others, if they would not suffer them to Issue forth upon the Enemy; and they cut the Gates with their Swords, as esteeming it the highest point of Indecency, for them to perish in a Conquered City, without having something Notably performed, and sutable to the Magnanimity of their Nation. The Commanders knew not what course to take, and at length consented, that if they staid but a little, till the Besiegers were further drawn off, they should fall upon their Guards, and breaking through them, proceed further, as they saw convenient; for they knew they would do great Execution upon them.

79. In the mean time, the Walls were Defended all wayes possible, and the *Persians* having raised two very high Batteries, to annoy the Town; the Besieged raised other two higher than they over against them. Now came a Dark and Misty Night, and the *Galls* would be kept in no longer, but out they went at a Postern, Armed with their Swords and Battle-Axes, and they Fortified themselves by their Prayers. They endeavoured so much to surprize the Enemy, that they would scarcely breathe for fear of making a Noise, and, killing some of the Sentinels, came to the Fore-Guard, which easily cutting in pieces, as having not the least Apprehension of any such Matter, they purposed, and hoped to reach to the King's Quarter, ere they should be much Discovered; but the Cries of the Wounded, and the Noise of such as shifted away, gave the Alarm timely enough to his Guards, and the Souldiers were so soon on their Legs, and ran such multitudes together, that the Daring *Galls* were presently at a stand, finding themselves frustrated of what they had Principally Designed, and without turning their Backs, retired by degrees out of the Lines, as utterly unable to sustain the Violence of those that came upon them. Now were the Gates cautiously opened to receive them, and in they were taken, with the loss of four hundred of their Company, besides some that were mortally Wounded, having narrowly missed of killing the *Persian* King, though encompassed with an Army of an hundred thousand men; for which, and other Bold, and sometimes more Successful Attempts, the Emperour caused the Statues of the chief Leaders of them to be Erected in a place of Concourse, at *Edeffa*. When the Light came and discovered what Mischiefe had been done, much Lamentation there was heard of the Kings and Nobility, for the great Loss they had sustained of their Friends and Relations; for, many *Satrapa's* and other Great Persons were kill'd, and a Truce was agreed on for three dayes; the Besieged being glad to have so much time wherein to take some Breath. But the Enemy Enraged now more than ever, resolved, either by the Destruction of the City to Appease the Ghosts of the Slain, or Perish in that Glorious Attempt; and all sorts of Engines and Devices they prepared, against the time the Truce should be expired; resolving to take that course, seeing that down-right Force could not prevail. By break of Day they came on, not as formerly, but in great Order, covered with their Machines; yet did the Arrows and Darts of the Besieged great Execution, none of them falling in vain; and the *Persians* were forced to separate, though they sorely annoyed the *Romans* by their Engines of Battery placed upon Turrets covered with Iron, which being much higher than those of the Defendants, killed them many men. In this manner was all this Day spent; and the most of the next Night the Besieged passed, in considering how

Seet. 4. they might best Obviate this Annoyance. After much Debate it was Resolved **A. D.** against those Turrets, whereon were Mounted those Engines called *Baliste*, to plant **259** four of that kind, which had the name of *Scorpions*, and all Haste was used to get them planted, ere the Light could discover them; which, though it could not fully be Effected, yet, when they came to play with round Stones cast out of them, the *Baliste* were Dismounted, the Turrets broken down, and the Fall of them drove back the Elephants with Violence upon their Masters; which Violence was driven into Fury by Fire cast upon their Backs.

80. Thus were the Batteries broken down, but the Fight, for all that, did not intermit. The *Persian* King himself, though not obliged to be present in Battel, thrusting amongst the thickest, like an ordinary Souldier, and Encouraging his Men; neither was he daunted by the showers of Arrows that fell near him (being sufficiently known by his Equipage to those on the Wall) till many of his Guard falling about him, at length he retired, when Night came on. And the Night having given but small Rest to the Besieged, the succeeding Day renewed their Sorrows, and Advanced them to the greatest Extremity. For, whenas the Turrets were broken, and rendred Useless; the *Persians* applied themselves to Fight upon these Mounts they had raised near the Walls; to which, when they within opposed others, that so they might fight on even ground; one of these Mounts, as if it had been with an Earthquake, removed, and fell upon the Wall, bearing it down, and filling up the Ditch without, so that it lay in the posture of a Bridge, or Causey, giving large Entrance to the *Persians*. By this time was the greatest part of the Garrison Souldiers either kill'd or disabled; yet without all fear of Death, Numbers flocked to make good the Breach, insomuch that one hindered another; but the Alacrity and Vigour of the *Persian* King, being more whetted by so notable an Advantage, he caus'd all his whole Force to Improve it; and now coming to dist of Sword, the Ditch was filled with dead Bodies, and thereby larger Access made to the Town. No longer could any Resistance be made, but the poor Defendants having done as gallantly as any in such a condition could do, running here and there, were slaughtered like Sheep, without distinction of Sex or Age. Some of them getting together, made what Opposition they could, and resolv'd to sell their Lives as dear as possible: but *Ammianus Marcellinus*, who was in Town all this while, and wrote the Story, with two others, assisted by the obscurity of the Night, escaped through a Postern, which was not observed; and using as much Speed as such a case required, got to a Place ten Miles distant, and thence overcoming many Difficulties, passed over the Countrey to *Euphrates*, which crossing by a Ferry-Boat, they found out *Ursicinus*, who was now Travelling to *Antioch*. But, to return to *Amida*. *Aelian*, a *Comes*, and those *Tribunes* by whose Valour and Conduct the Town so long held out, were Nailed to Crosses. *Jacobus* and *Celsus*, two of those Officers belonging to the *Magister Equitum*, called *Numerarii*, were led away together with the rest of the Multitude into Captivity, with their Hands bound behind them; and as for them that lived beyond *Tigris*, being carefully sought out, they were put to the Sword, as well great as little. And now the City being Razed; for that Autumn was something advanced, *Sapor* resolv'd to return homeward, curwardly rejoycing, and making a shew of Triumph; but inwardly and secretly Fretting, for that he had lost more men himself, than he had either taken alive, or killed in any of the late Engagements, as formerly it hapned at *Nisibis* and *Singara*; for, before this Town perished on his side Thirty thousand; as was discovered by *Dijenes*, a *Tribune-Nitary*, who discerned them from those of the other by this Token; that the Carcasses of the *Romans* speedily putrified, so that after four dayes they could not be known by the Face; whereas those of the *Persians*, dried like so many pieces of Wood, without any Moisture or Corruption appearing, by reason of their spare Diet, and the great Heat of the Countreys where they had lived.

81. Leaving now *Sapor* to prosecute his Retreat, we must return also into the *Western* Parts, and inquire what becomes all this while of *Constantius*. As we left, so we find him at *Sirmium*, all the last Winter, till called again into the Field by the Motions of the *Sarmata Limigantes*, or Slaves, whom the Summer before he had caused to change their Dwellings, and remove into other Parts, at a greater distance: and *Ammianus* writes, that he was forced to march, ere Spring was full-Ripe, or, as he words it, *Adult*: which, if we Consult the Dates of some Laws made by him at this Time and Place, we must interpret at the later end of *May*. For on the five and twentieth of *March* we find an Edict by him Directed to *Orjatus*, the *Præfēt* of *Rome*, which is more to be taken notice of, for the Mention it makes of the *Urbicarian* Regions, than out of respect to the Subject and occasion of it; although those Matters of such Antiquity, and concerning that City, be not to be Neglected. There were, as we formerly hinted, Bodies or Companies of Lime-burners, called *Calcarianjes*, & *Calcis Coctores*, who prepared Lime for

*L. 1. de Calc
Coctores.
Cod. Theod.
lib. 14. tit. 6.
Abest hæc Titu-
lus à Cod. J.
lin. Vide
the Paratitlon.*

Renewed the
following day.

In which, the
Wall being
broken by
the fall of a
Mount, the
City is taken.

Ammianus the
Historian
escapes.

The City Ra-
zed.

Sapor having
lost more of
his men.

Sect. 4. the use of *Rome*, and *Constantinople*, and another sort known by the Names of *Vestuarii* and *Vestpres*, who Conveyed it thither. To the Maintenance of both these

Constantius takes Order about the Burners, and conveyers of Lime:

sorts of Workmen, certain Lands belonged, as by Service, to find them Maintenance: and *Constantius* by this Edict Ordains; That (to clear all Disputes, which in this case might happen) from all such Lands shall be allowed to the Lime-makers, for every three *Vebes*, or Wain-Load of Lime, an *Amphora* of Wine, and to the *Vestuarii* the like Quantity, for the Conveyance of two thousand and nine hundred Pounds weight of it. And he declares, that not the Persons, or the Possessors, but the Grounds themselves shall be lyable to this Payment, and moreover Wills, that three hundred Oxen be given, or allowed to the *Vestuarii*, out of the four Regions. An *Amphora* here is to be taken for a Measure, which contained eight and forty *Sextarii*, each of which held about as much as a *Paris-Pint*, or above our Wine-Quart. We see by this Law, that these Workmen were paid in kind, and not in Money, which was much in Fashion before Gold and Silver came to be so common as now it is. But whereas it is said, that so much Wine should be afforded to them out of these Lands, it is not to be understood, that the Possessors thereof paid it immediately to those Workmen; but there was a publick Office for Receipt of this Wine, called *Arca Vinaria*, which was under the Charge of the *Præfekt* of the City, and particularly under this *Orfitus*, who now held the Place, as *Symmachus*, one of his Successors, and his Son in Law signifies, upon no pleasing Occasion. For, after *Orfitus* his Death, his Children were by the Treasury troubled about the Accounts of this Receipt, as *Symmachus* grievously Complains, though all had been Issued out that he had received; and what was behind was in Solvent hands. And as for his two Daughters, they had not medled at all with what he left; so poor he died. Under the same *Præfekt* there was another Officer or Accountant called *Rationalis Vinorum*: but as for what *Lampridius* writes of a Body or Company of *Vinari*, instituted by the Emperour *Alexander Severus*, and the *Tribuneship* of the *Forum Vinarium*, of which *Symmachus* also makes Mention, and cited by *Juretus*, I rather think them to have relation to the publick Sale of Wines, and not to these that were paid in kind; except the *Præfekt* or under-Officers sold these Wines, and gave the Price to the Workmen. This Law being directed to the *Præfekt* of *Rome*, by the four Regions can nothing be understood, but the four *Urbicarian* Regions, of which first mention is made in this *Consulship*, of *Eusebius* and *Hypatius*, (upon what Occasion we have already said) and first observed by the Learned *Gothofred*.

Symmach. lib. 9. Epist. 121. & lib. 1. Epist. 42. 47. & vide Jureti Miscel. in Epist.

And regulates Matters about Prætors.

82. At this time further Contests happened about the Office of *Prætor*, which being so Troublesome, and especially Chargeable, as we have often said, all sorts of Persons endeavoured to shift it off, both from themselves and their Friends. And upon this Account Disputes arose about the manner of Elections; and such as had been *Pro-consuls* and *Vicars*, pretended, that they were above the Office. To Determine these and other Points, *Constantius* Directed his Resolution to the Senate (divided now in the *Code* into two Laws) bearing Date from *Sirmium*, on the two and twentieth of *May*, whereby he declares his Pleasure, That only such have Voices in the Election of *Prætors*, as had been *Prætors* themselves; such being best Judges (from their own Experience of the Office) who were fit, and rich enough to manage it. In the next Place he will have the common Course in all such matter to take Effect; viz. That the major part should have the decisive Power. Then in a pompous kind of stile, he uses several Arguments to convince them, that the Employment was no whit below such as had been, either *Pro-consuls* or *Vicars*; telling them, that they could not but remember, nay, he believes, never could forget, how *Facundus* the *Ex-Proconsul*, and *Arsenius* the *Ex-Vicar*, had flourished with the Ensignes of the *Prætorship*; neither of them having thought it too mean, or an Eclipse to his former Dignity. By this it appears, that these two Persons were very eminent for their Worth, at this time, though otherwise we hear nothing of them; he demanding what can be more Illustrious than their Examples? and saying that others ought by them to be admonished, though indeed *Pro-consuls* and *Vicars* were reckoned of great Dignity, as being the first in the Rank of *Stabilis*: But in the last Place, he, who ever much favoured the Senate, gives it full and absolute Power of *Nomination* and *Election*, according to these Rules, without any Recourse had to himself, or the *Præfektus Prætorio*, as was wont to be practised in Matters of great Moment; and that so much toward the *Præfekt*, that it was seasonable to put some Restraint to his Power. And indeed the Custom was, that the *Præfekt* of the City (who as hath been often said) was the *Præsul* of the Senate (the word *Præsul* was very proper, though applied to Lay-Persons

L. L. 14. 15. de Prætoribus, &c. Cod. Th. lib. 6. Tit. 4.

Quid enim illis his reprobatur Exemplum? Debuerat proferre ista, debuerat alios etiam commovere &c.

sect. 4. sons in those Times) had recourse to the Emperour, about the choice of *Prætors*. *A. D.*
 We shall only, as to this Law, further add, that therein he gives but the Title of *Clarissimus* to the *Præfectus Prætorio*. For, in *Constantius* his Time, that of *Illustrius* was not received yet, in that distinct and proper Sense, as we find it applied in the *Notitia* ; though about this time *Illustrius* and *Clarissimus*, as by several Instances might be proved, were joyned together in the Title of one and the same Person. *359.*

83. From *Sirmium*, *Constantius* removed to *Singidunum*, a City of the *First Mæsia*; for there we find him by the Subscription and Date of another Edict, of the Eighth month of *June*, with which we think not fit to trouble the Reader. For, he was perpetually Alarm'd at *Sirmium*, with fresh Reports, how the *Limigantes*, not Content with the Territories Assigned them, began to make Excursions into those next the Borders, and would create him more work if not prevented. Gathering therefore his Men together, he Resolved to make as much speed as he could, and the rather, because he doubted not but the Army would think it, the sooner they were in the Field, the better, they Fared so well the last Summer. And *Anatolius*, being *Præfectus Prætorio* of *Illyricum*, was before-hand with them in Provisions, without any Disadvantage to any Man. He Marched first into *Valeria*, (formerly counted part of *Pannonia*, but so distinguished and named in Honour of *Valeria*, the Daughter of *Dioclesian*) and from the Banks of *Ister*, observing the Motions of the *Barbarians*, sent, and demanded of them the Reason why they kept not themselves Quiet at home, but Roved up and down the Borders, contrary to what had been enjoyned them. Not knowing what to say, Fear made them Lye, and after Frivolous Excuses, they begg'd, that he would give them leave to come over the River to him, and that he would please to Assign them some place to Inhabit within the *Roman* Pale ; that they might betake themselves to Rest, and be able to pay him Tribute. At this he was exceeding Glad, as hoping he had gone through a Business of so much Difficulty without Blood or Sweat, and readily admitted them; being Flattered in his Expectation by his Attendants, who told him, how, by this means, all those Quarters being in Repose, he would have a Supply of Fresh Souldiers constantly from that People ; for the Provincials, they said, would willingly Exchange Gold for *Tirones* ; which sort of Hope sometimes Endamaged the Affairs of the Empire. A Line is drawn near a place called *Acumincum*, and a Mount raised instead of a Tribunal ; near to which some *Legionary* Souldiers were placed in Boats upon the River, to come upon the Backs of the *Limigantes*, in case they should prove Tumultuous. For a time, they stood with bended Bodies, in an Humble Posture, but bearing another kind of Mind than they made shew of : for, when the Emperour from the Mount, was about to speak mildly to them, as those that for the time to come would be Tractable and Obedient ; one of them, in a Furious Mood, threw his shooe at him, and cried *Marha, Marha*, which with them was the Watch-word for Battel ; and with that, they all made, with a great Noise, and in a Menacing manner, towards him. He seeing Darts fly, and Swords drawn, in great fear leaped down, and pressing amongst the *Barbarians*, and his own men now Thronging together, got on Horseback, and made his Escape ; some of those about him, who laboured to keep off the Multitude, being trodden to Death in the Croud ; and his Imperial Chair, with the Cloth of Gold Cushion, became fair Booty to those that could first catch them, though it cost them dear.

84. For, the Army hearing the Prince was in Danger, in great Indignation and Rage, though but half Arm'd, rushed into the Place, to revenge a thing so Ignominious both to the Empire and themselves ; and breaking with Violence into the Croud, they hewed and bore down all before them, without any Difference. There was no place now left for Intreaties ; but those that begg'd Pardon, as well as such as were pertinaciously resolv'd, perished alike ; and when they were all either kill'd or disperfed, (which were but few) some of the *Romans* were found Dead amongst them, either trodden to death, or slain by the Enemy, at their first Onset ; as was *Cella*, Tribune of the *Scutarii*, who had cast himself into the thickest of them. The Insolence of these *Limigantes* thus punished, and all things settled upon the Limits, as Convenience required, *Constantius* returned to *Sirmium*, where, getting all things in readines, as the time would permit, he set forward for *Constantinople*, Resolving for the *East*, there to Heal the Wound lately received at *Amida*, and by a new Supply of larger Forces, to give a check to the Ambition of *Sapor*, who was resolved to leave *Mesopotamia* at his back, and pierce further into the Upper Provinces. But while he prepared to wage War with an outward Enemy, he forgot

He removes
from *Sirmium*
to *Singidunum*,
and to against
the *Sarmates*;

Whom he ad-
mits to his
Speech, and
thereby en-
dangers his
Person.

For which the
Limigantes pay
dear.

L. 28. de Ap-
pellationibus,
Cod. 7b.

Sect. 4. forgot not to raise Civil Storms, as it were, at Home (so *Ammianus* terms it) against such, as the Insinuations of *Paul* the *Notary*, that most covetous, and cruel Informer, and his own Jealousie represented as Criminals in an higher degree of Enmity. There was a Fam'd Oracle at *Abydos*, a Town of *Thracia*, of an Idol called *Besæ*; to which, many flocking from the Eastern Parts, for Answers to their several Questions, it sometimes happened, that both the Question and Answer were left in Writing in the Idol's Temple. Some of these were maliciously sent to him, which presently Discomposed him, and in this Fit of Jealousie, *Paul* is sent away into the East, with whom is joyned *Modestus*, the *Comes* there, a man fit for the purpose: whereas *Hermogenes Ponticus*, the *Præfectus Prætorio*, was far of another Temper, and no whit proper for such an Employment. *Paul* so diligently plied his Business, that some were condemned to Banishment, and others to Death, he making his Markets out of their Estates, for which reason he so belaboured himself, that, if any Person had any Charms against a Quartan Ague, or any other Distemper, hung about his Neck, or by Night passed through the Monuments of the Dead, he was presently Accused, and Condemned as a *Necromancer* and *Enchanter*, as if he had Consulted *Dodona's* Grove, or the once fam'd Oracle at *Delphos*, against the Life of the Emperour. But, while Innocent Persons were thus Tormented, as desirous to know what the issue of things present would be, a Real portentous Prodigy happened at *Daphne*, that Pleasant and Renowned Suburb of *Antioch*, which *Ammianus* concludes, did signifie, that the Commonwealth was going to fall into an Ugly condition or state, which, however, perceiving his Meaning to aim at a year or two hence, we are apt to believe was shortly to be fulfilled; A Monster was there born with two Mouths, two Teeth, and a Beard, four Eyes, and two very short Ears. We will not say, that this fore-shewed one to Succeed next in the Empire, that had two Mouthes, in a very short time, being a Reader in a Church, first, a Professor of our Religion, and then an earnest Declamer against it, and a Persecutor of it; one, that in a short time look'd two several wayes, as if he had two Stories of Eyes, and began to purpose to shew another sort of Teeth too, and, had he Lived, would have sore bitten; withall wearing such a Beard, that *Ammianus* himself, though no small Friend, confesses it was Deformed, that it rendred him Ridiculous, and justly Exposed him to the Jeers and Affronts, even of those in *Antioch*, and about *Daphne*, where this Monster was born (as we shall shortly see) and where this Person was as much Gazed at, as it, for that Deformity, and other strange Sights he there procured to be seen, but had no Ears to receive any Advice, especially as to Religion. We put no stress upon these things, but to Comply with our Historian, whose own Relation, for the most part, or altogether makes good our scarcely serious, Interpretation.

Constantius,
out of Jealousie,
Cruel
against several
Persons.

*Præmonest
Republi am
in statum vult
deformari.*

85. About this time, the *Isauri*, (a People of *Asia Minor*, Bordering upon *Cilicia*, (of whom heretofore) having been long Quiet, began to return to their wonted, Restless courses; and falling down from the Mountains, Rocks and Thickets (which so sheltered them, that the Souldiers that lay thereabouts in Garison, or in the *Prætentura*, could do little Execution upon them) much Distressed the Neighbouring Provinces by their Thefts and Depredations. To Restrain them, either by Fair means, or by Force, was sent one *Lauritius*, with the Dignity of *Comes*, a Prudent, and Civil Person, who, with such Discretion managed his Matters, that he wrought upon them, rather by Threats, than any harsher Effects; and continuing there some time, reduced the state of those Parts into so much Quiet and Order, that nothing justly could be Blamed. But by this time *Ursicinus*, after the Destruction of *Amida*, was come to Court, whither he had been sent for (as we said) to Succeed *Barbatio*, as *Magister Peditem Præsentalis*; for so it was pretended. He was no sooner Arrived, but his Adversaries began to whisper, and then to speak out, of Heinous things done by him; to which *Constantius*, giving too much credit, committed the Hearing of the Matter to *Arbetio*, and *Florentius*, the *Magister Officiorum*, with Charge to inquire how *Amida* came to be destroyed. They could not for shame but reject such Allegations, as carried sufficient marks of Falshood with them; neither, for fear of offending *Eusebius*, the *Præpositus Cubiculi*, durst they lay the Load, as they ought to have done, upon the Base Cowardise of *Sabinianus*; but pursued trifling Matters, and foreign to the Business. Hereat he, who was most concerned, was so Enraged, that he openly said, Though the Emperour was pleased to slight it, yet the Weight and Consequence of the thing before them was such, that it could not but be Heard and Punished by the Prince himself, to whom he could easily foretell, that though he concerned himself so much about what had happened at *Amida*, after that manner which he truly related; so long as he was governed by *Eunuchs*, in the manner he was at present, though he himself went in Person with an Army the next Spring,

*Ammianus
lib. 20.*

yet

Sect. 4. yet should he not be able to Protect *Mesopotamia*. This was told to *Constantius*, and *A.D.*
 many things more added, with a Malicious Interpretation; whereupon he was so *359.*
 extraordinarily incensed, that, breaking off the Inquisition, and not permitting
 such things to be laid open, as had been kept from his knowledge, he put him out
 of his Place, and Commanded him to Retire, preferring to it one *Agilo*, by a great
 Leap from being *Tribune* of those called *Gentiles Scentarii*. About the same time hap-
 pened a great Eclipse of the Sun, seen in the East, where, from Morning till Noon, it
 was so dark that many Stars appeared.

Zosimus,
 through the
 Malicious pra-
 ctises of *Euse-
 bius*, turned
 out of his
 Place.

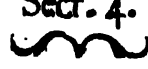

Constantius
 sends for part
 of the Army
 from *Julian*.

A Libel here-
 upon spread
 abroad.

86. But while *Constantius* was preparing to go against the *Persians*, he was, as we
 have it, from the two *Pagan* Writers, *Ammianus* and *Zosimus*, much Troubled in
 his Mind, to hear the Fame of his Cousin *Julian* spread so far and wide, who had
 done such wonderful things in *Gall*, and against the *Almans*. Grievously netled,
 you must know, and fearing his Renown would increase, at the Instigation of *Flo-
 rentius*, the *Præfect*, he dispatched away *Decentius* the *Tribune* and *Notary*, to bring
 from him the *Auxiliary Heruli*, and *Batavi*, the *Petulantes*, and *Celtae*, with
 three hundred more to be picked out of the other *Legions*, and that with all Speed,
 that they might be ready by the Spring, to set forward with the Army against the
Persians. *Julian*, not perceiving the Design, or discerning it (as knowing it his
 Duty to obey) made no Opposition; yet could not forbear to say, that it was
 hard, that those should be sent Eastward, who had left their Dwellings beyond
 the *Rhine*, on Condition that they should not be removed further than the *Alpes*;
 for it was to be feared, that the *Barbarians* coming in hitherto chearfully to the Ser-
 vice, upon hearing of this, would, for the time to come, be very backward. But
 his Complaint was in vain, for the *Tribune* not at all regarding what he said, but, fol-
 lowing fully his Instructions, with a Choise Party he had pickt out here and there,
 resolved to go his way. *Cæsar* was much troubled about the rest that were to be
 sent; on the one side, considering how much the Enemy might be thereupon encour-
 aged in his Natural, and wonted Ferity; and on the other, that the Emperour's
 Orders must be obeyed, and the Absence of the *Magister Equitum* making him to
 distrust something, he wrote to the *Præfect* to come to him, who was gone away to
Vienna (now *Vienne* in *Dauphiné*) under Pretence of pursuing his Charge, as to Pro-
 visions for the Army; but indeed, on Purpose to withdraw himself from it, having
 given Advice, that these Forces should be removed from the Defence of *Gall*,
 which had done such Service, and were so terrible to the *Barbarians*. *Julian* pre-
 sed him to make haste to Assist the State, which now wanted his Advice; urging,
 that the *Præfect*, in doubtful Junctures of time, ought not to be absent from the
General, and that if he would not assist him, he would develt himself of the Purple;
 concluding, it was more glorious for him to venture being put to Death, than that
 the Ruin of the Provinces should be ascribed to him. However, the *Præfect* obsti-
 nately refused to come, and *Lupicinus* the *Magister Equitum*, being sent away with
 some of the Forces, *Julian* knew not what Course to take; but at last resolved, it
 was best to withdraw the Remainder out of their Quarters, and put them into the
 Road. This being once known abroad, a Libel was dropped near the Standard
 of the *Petulantes*, amongst other Seditious Passages containing; that they were as
Criminals, to be Banished to the utmost Parts of the Earth; and now their Relations
 should again become Slaves to the *Almans*, from whom they had delivered them by so
 many bloody Battels.

87. Word hereof being brought to *Cæsar*'s Court; when he considered the ground
 of their Complaint, he ordered them to carry their Families with them into the East,
 (in what Sense a Family is to be taken in such Cases, we have told the Reader al-
 ready out of the Laws) permitting them the use of that sort of the *Cursus Publicus*,
 called *Clabularis*, for that Purpose. And when it was doubted what way they
 should go, at the Suggestion of *Decentius*, it was resolved it should be by *Paris*
 (which *Zosimus* calls a little Town of *Germany*) where *Julian* still lay, being not
 yet removed out of his Winter-Quarters. Upon their Approach he met them in
 the Suburbs, and according to his Custom, fell on commending such of them as he
 knew, and putting them in mind of those gallant Things they had formerly done,
 gently admonished them to go chearfully to the Emperour, where they should each
 be prefer'd, according to what they had deserved. Besides this, he invited the Prin-
 cipal Officers to a Feast, and asked them what he could do for them, who being
 wonderfully taken with so great Kindness, were very melancholy to think of their
 Journey, as well because thereby, through their hard Fortune they must be depri-
 ved of so sweet a Commander, as banished from the Places of their Nativity; and
 so in great Grief they went to their Lodgings. And now the Reader may easily
 guess

*Ἰουλιανὸς δὲ
 ἐν τῇ Παρι-
 σίῳ (Γερμανί-
 ας δὲ αὐτῇ
 πόλει) διατρίβοντος.
 Hist. l. 3.*

Sect. 4.  guess what this great Dearness, on both sides, would come to. Their Sorrow A. D. 260.
 would not let them rest, till Morning, but in the Night they fell into great and heavy Lamentations, each as his particular Concernments pressed him; besides that General and Paramount one, of leaving so gracious a Prince; and making their Cases known one to another, their Anger, as Coales, when laid together, into a Flame, brake forth into open Rage: Their Tongues now have the strength to move their hands, and their Hands to grasp and brandish their Swords. To the Palace they march in a menacing manner, and besetting it round, so that none could escape; with a horrid Noise salute *Julian* by the Title of *Augustus*, and vehemently urge him to come forth to them. For all their Haste he made them stay till it was Light, but then he was forced to come down. At the Sight of him, with a Reiterated Shout, and an Unanimous and Resolute Consent, they again called him *Augustus*; to whom he answered, *Nolo Imperare*, as Seriously and Cordially, as ever any said *Nolo Episcopare* in another Case. Nay our Author tells us, that All, Some, and every One (and surely they were a good many) of them, he resolutely opposed; one while shewing that he was displeased, another while stretching out his Hands, intreating, nay beseeching them, that after so many and happy Victories, they would not do any unhandsome thing, nor by their unseasonable Rashness give Occasion to further Troubles.

The Souldiers
mutiny, and
Salute *Julian*
Emperour.

*Ille mentes
data unius
resistebat,
singulis.*

88. Having brought them to some Quiet, he presently praid them to content themselves, and without any Innovation or Disturbance, they should have what they so much desired: for seeing they were so unwilling to leave their own Country, and go into remote Parts, they should return to it again, and he would take upon him to argue it with the Emperour, who was a most prudent Person, and capable of Reason. Now can we imagine these men of *Mars* and *Metal* to have Hearts, as hard and invulnerable, as the Steel, or Iron they wore; that so sweet so obliging Words could have no Impression on them, but to leave them merely selfish and Ingrateful? for one good Turn, doubtless, requires another. No, they would not endure he should cast such a Blot upon them; but unanimously, and with the greatest Earnestness imaginable, nay with reproachful Language, mixt, as if they would not be so used, they compelled him to receive the *Imperial Title*. Then being lift on high, upon the Target of a Foot-Souldier, and Silence being made, he was declared *Augustus*, and now was bid to produce his Diadem, but he denied that ever he had any: whereupon they asked for that which his Wife wore about her Head, or Neck. For the Reader must know, that generally a Diadem in those Times, was but a thing like a Fillet, or a Bracelet studded with Gold, or Pearl, or some such like things. But he told them, that it was neither seemly, nor lucky, to have his Beginnings graced with any thing belonging to a Woman's Ornaments (he would not for Iwarers take that Dress, which in his Tale of the *Cæsars* he so lovingly bestowed upon his Uncle *Constantine*) and therefore they betook themselves to his Horse, to see if amongst his Trappings and Furniture they might find something to resemble that Ensign of Sovereign Authority. But he as earnestly affirmed this to be also unseemly, and so without any more to do, one *Maurus*, who was afterward preferred to the Dignity of *Comes*, and ill behaved himself in a Matter of War, though at present but one of the *Hastati*, took a Laurel, or Chain he wore, and confidently put it about his Head. And thus *Julian*, driven to it by utmost Necessity, and considering, that he had no way to shun the present Danger if he had persevered in his Refusal, was forced to submit, and promised them all five *Aurei*, and a pound of Silver.

He would decline it, but they compell him to accept the Title.

89. The thing being over, he was Distracted with no less Care than formerly, so that he neither wore the Diadem, nor ventured abroad, nor minded any of the Publick Concernments, however pressing; but mewed himself up close in his Lodgings, frightened by the Variety of these sad Accidents. Hereupon a certain *Decurio* of the Palace (a Place of Dignity *Ammianus* tells us,) ran suddenly to the Camps of the *Petulantes*, and *Celtae*, and roared out; that a dreadful thing had hapned; for he, who by their Will and Resolution had been declared *Augustus* the day before, was now privily murdered. The Souldiers enraged at that Word, (as true Stories, or False are apt equally to move them) with their Swords drawn, or other Arms, ran furiously to the Court, and with the Noise, the *Guard*, *Tribunes* and the *Comes Domesticorum* himself was frightened away, as from present Death, not being able to imagine what they should mean. At length, seeing no Body to oppose them, they stopt both their Course, and Fery; and being then demanded what the Matter was, would scarcely be satisfied concerning the Safety of their Emperour, till, admitted into the Consistory they saw him gloriously set out with the *Imperial Habit*.

Sect. 4. Habit. But upon Report of what had passed at *Paris*; some of those that had been sent away toward the Emperour, under Conduct of *Sintula*, the Tribune of *Julian's* Stable, returned thither; and now it being time to show himself publicly, like an Emperour indeed, all were ordered to meet together in the Field, the following Day. Against the time a more stately Tribunal was erected, which he mounted with greater Pomp, Encompassed with the Eagles and Banners, and incircled with multitudes of armed men. After a little Pause, to take a view of their Countenances, and accordingly to Frame his Speech, when he saw them cheerful and pleas'd, He put them in mind, how from the time that being very young, he had in show worn the Purple, and by Heavenly direction been committed to their Protection, he never had been driven from his Purpose of a good Life, being present with them in all their Labours, and assisting them to humble such proud *Barbarians*, as were left, and survived the Slaughters of innumerable Thousands of their Companions, and the Destruction of their Cities. He added, that it was needless to relate, how often in the Cold and hard Winter, when Wars are wont to cease, both by Sea and Land; they and he together had defeated those *Almans*, which at other times had been invincible. But that was by no means to be passed over in Silence, that most Blessed Day, which brought in a manner perpetual Liberty to the *Galls*, when near *Argentoratum*, while he ran up and down where the Darts flew the thickest, they by the Strength of their Valour, and Military Experience, when whole Torrents of Enemies, as it were, fell with Violence upon them, either destroyed them with the Sword, or forced them into the River, there to Perish, few of themselves being left, whose Exequies they performed, rather by Praise and Commendation than by Mourning. Having done so many, and so great things, he believed that Posterity (and that through all Nations) would talk of their well-deserving of the Common-wealth, if they would but defend to the utmost, him whom they had advanced to an higher Degree of Majesty, if any thing otherwise than well should happen. And for preserving of good Order, that valiant Men might not go unrewarded, nor Secret Ambition seize upon the Honour that was due to Merit, with their Council, and Approbation, he was resolved that neither any Civil, nor Military Officer, otherwise than as Desert required, should rise to any higher Preferment; but such be disgraced, as should but move in behalf of any that was not deserving. This was much applauded by the ordinary Souldier; who having for all his Service hitherto received, neither Preferment, nor any other Reward; was encouraged to hope for better things, and testified the same by striking his Lance upon his Target. And now the *Celte* and *Peulantes* intreated for some *Aethurians*, that they might be sent upon some Employments designed them; which he would not grant, and they went away neither offended nor sorry. But in Reference to what *Julian* had accepted, *Ammianus* further tells us that he told some of his intimate Friends, how that the Night before he was declared Emperour, something appeared to him, in shape like the Publick *Genius*, and in a chiding manner told him; that formerly, though privately, he had watch'd at his Door, having a great desire to increase his Dignity, and had sometimes gone away, as being rejected; and if now he would not entertain him, the Multitude concurring in their Opinion, he would depart sorrowfully, as one put away: but bid him think seriously of it, that he would dwell no longer with him.

90. Thus merrily went on Matters in *Gall*, when in the mean time the *Eastern* Provinces were in a far different Humour. For there the Cruel *Sapor*, being encouraged by the Advice and Assistance of two Fugitives (*Antoninus*; whom we spake of before, and one *Crangasius*, who had fled to his Wife, that was taken Prisoner in a Castle) burnt still with a vehement desire of Conquering *Mesopotamia*, while *Constantius* was far distant with his Army; and passing over *Tigris*, began his Work, by laying Siege to *Singara*, a City on an Hill of that Name, and near that River. Those that were in it were very Courageous, esteeming it every way very well provided, and upon knowledge of his coming, stood ready to receive him on the Walls. At first he Attacqued them with fair words, in which he spent one whole day, to give them time to consider; but that not prevailing, by that time it was light the next Morning, he set up his Bloody Flag, and began the Assault; they as valiantly Defended it, and several dayes passed in this manner, many being Kill'd and Wounded on both sides; till at last, by a Tryal of many Engines, one Ratt did such Execution against a square Tower, that it made a great Breach therein; and though they wrought very industriously to make up the place again; yet the Mortar being Green, and the Stones as yet loose, it again continually Battered down

A.D.

359.

His Speech to
them in Com-
mendation of
himself.

Sapor again
passeth *Tigris*,
and Besieges
Singara.

Sect. 4. down their Work, and at last made such a Passage as gave the *Persians* a large Entrance into the Town; which being taken, a very few were kill'd in the Hurry, and the rest were sent away, by the Command of *Sapor*, to the farthest Parts of *Persia*. The Garifon consisted of two *Legions*, viz. the *Prima Flavia*, and the *Prima Parthica*, besides numerous Inhabitants, and a Party of Horse, taken in upon the sudden Occasion, who all, with their hands bound behind them, were led away into Captivity, there being none to rescue them. For the greater part of the Army lay, for the Defence of *Nisibis*, at a great distance, and neither in old time could any Relieve *Singara*, when in danger, there was such want of Water in the Countrey about it; so that though it was at first Built to curb the sudden Motions of the Enemy, yet it brought more Damage than Advantage to the *Romans*, being several times taken, with the Loss of them that kept it. This Town being Razed, *Sapor* very prudently shunned *Nisibis*, remembering how ill he had fared formerly there, but turn'd to the right hand toward *Bezabde* (more anciently called *Phœnicia*) a strong Fort placed on an Hill, indifferent high, and bending towards the Banks of *Tigris*, where the Ground was low, and less Defensible, Fortified by a double Work, and Man'd by three *Legions*, viz. the *Secunda Flavia*, the *Secunda Armeniaca*, and *Parthica Secunda*, besides many Archers of the *Zabdicæ*; in the Territories of whom, then living in Obedience to the *Roman Empire*, this *Municipium* stood.

91. *Sapor*, after his manner, first Summoning it, advis'd them to be Prudent, and come forth, and submit to him, the Conqueror of Nations; and a Day and a Night being given them to consider, when this would not do, by that time it was light the next day, he fell with all Violence upon the Wall; but found such Resistance, that on the third he, as well as the Besieged, was glad to think of one day's Respite. Now came to him out of the Town the Bishop of that *Dioecese*, who, by all the Rhetorick he had, could not perswade him to Raise his Siege; but on the contrary, rather the more encouraged, he swore he would not depart, till he had taken it. A Slander was raised on the Bishop, as if he should discover to him the Weakness of the Town, because afterward he set his Engines to the most rotten Place in all the Wall. But here was again such vigorous Opposition, both by those Engines called *Baliste*, and also by the other termed *Scorpions*, whereof the one cast Arrows, and the other Stones; Moreover by the tumbling down of Stones, scalding Pitch, and *Bitumen* by the Hand, that nothing could have prevailed with the *Persians* to persist in the Enterprize, but the violent Resolution of their King, who they knew would be enraged, if the City was not his before Winter. This drove them on without any Regard had to Death, or Torment, which in so diverse Shapes presented themselves to their View; and it hapned that one Ram, which was covered with a Raw Hide, so as no Fire could hurt it, creeping by Degrees, battered the Wall with such Violence, that down it fell, and in it's Fall killed many of those within. At this Breach did the *Persians* enter; and now great Slaughter was made on both sides: for the Defendants still fought, and held out, till, borne down by Numbers, they fell merely by the Sword of the too powerful Enemy. *Sapor*, overjoyed at the taking of this Place, which was of such Moment for his Design, repaired the Wall, and put in a strong Garrison, well victualled, lest the *Romans* learning of what Importance it was, should attempt to retake it. Then went he to a Fort called *Uta*, very ancient, as imagined to be built by *Alexander the Great*, in the utmost Quarter of *Mesopotamia*, of great Strength, and Inaccessible. This by all Art imaginable he endeavoured to be master of, but neither words of both forts, nor Force prevailing, he broke up his Siege and departed.

92. So went Matters betwixt *Tigris* and *Euphrates*, the News whereof were brought to *Constantius*, then lying at *Constantinople*, or thereabout; for thither he was come out of *Mysia*, from the Expedition against the *Limigantes*; having in the Month of *October* reached the City of *Nicaea* in *Thrace*, as he travelled thither. Being now much concerned about the Progress made by the *Persian* in the Eastern Parts, with all Industry he spent the Winter in Preparations for a vigorous Resistance. He raised new Forces; filled up the Vacancies in the *Legions*; abundantly furnished them with Arms; and for a further Supply, procured as many *Scythians* as he could for Love, or Money. For Conveyance of all these men, and Arms, there must needs be great Need of the *Cursus Publicus*, or Publick Carriage; and therefore about this time we find a Constitution (now parted in the Code of *Theodosius* into three several Laws) directed to the *Agentes in Rebus*, out of the Body or Company of whom, as we said, only, he would have the *Curiosi*, or those that managed it to be chosen. Now although *Gothofred* would

St. 4. have this Constitution to relate to *Illyricum*, the *Præfectus Prætorio* of which Di- A. B. strict, *Ammianus* tells us, was very careful of getting Provisions; from which Pas- 359 sage, and another cited out of *Victor*, that learned Man proves what Care *Constantinus* took to provide for the well Management of this *Cursus*, and for the Ease of the Subject, against the Avarice and insolence of those that managed it. Yet seeing he was now come further Eastward, was moving towards those Provinces which were infested by the *Persian*, and, as *Gothofred* himself proves in his *Chronicon* (added to the Chronologie of the Laws) that in *October* he was got as far as *Nice* in *Thrace*; whereas on the last day of *October* this Constitution bears Date, or was proposed; we cannot but conclude it to respect *Thrace* it self, through which the Army, and Arms must pass, and whence, as *Ammianus* writes, he Purposed to march, as soon as Spring should be adult, or, as he means, the Season would permit. But as to the Constitution it self, *Constantinus* had been indulgent to the *Agentes in Rebus*, thinking them fittest for this Charge, as we said formerly, and they were often guilty of Insolence, and Rapine; and the rather, because they were Subject to the Jurisdiction properly of the *Magister Officiorum*, who being at a great Distance, when they were in the Provinces about their Business, hope of Impunity made them more bold to commit Disorders. Therefore bad Princes, who intended to make Use of such men as Sponges, would not have them under the Eye, or Awe of any other, but reserved the Power of animadverting upon them to themselves alone: as *Caracalla* ordered it towards the *Frumentarii*, to whom these *Agentes in Rebus* succeeded: but for Restrainment of all sorts of Crimes, the most effectual Course is, that the Offenders be punishable in those Jurisdictions, where they commit the Faults; because the Apprehension of present Danger hath greater Force to restrain Enormities; and Escape, which often happens in removal of Prisoners, is prevented; and Satisfaction by a Sight of the Punishment is given to the Country, or Parties injur'd, who are discouraged from Prosecution by the Toil, and Charge of tedious Journeys. Therefore, in the first Place, *Constantinus* gives Power to the *Præfectus Prætorio* over the *Agentes in Rebus*, and *Curiosi*, at such time as they are employed about the *Cursus Publicus*; for two years before, he had in general given to the *Præfect*, and Governours of Provinces, Authority over them; yet they complain'd, and alleged, that the *Præfect* had nothing to do with them, and that they were punishable only by the *Magister Officiorum*. And he signifies himself to be so far from revoking any Sentence given against them by the *Præfect*, or any way encouraging them, if they had Recourse to his own Person, that he assures them, he would animadvert upon them with more Severity; wherein he was imitated by some of his Successors; although *Tribonianus* hath minced this Threatning in his Code, or that which goes under the Name of *Justinian*.

Gives Power to the *Præfectus Prætorio* to restrain the *Agentes in Rebus* and *Curiosi*.

Prid. Kal. Nov. Eusebio & Hypatio Cos. A.D. 359
Auxilia super his Scytharum poscebant mence de, vel gratia ut adulto vere, profectus e Thraciis loca suspecta protinus occuparet.

L. 2. de Curiosis Cod. Th. ubi supra.
L. 3. Cod. Justin. cod. Tit.

93. But to prevent Abuses in any Office, or Employment, the securest Course is, to make Choice of Honest and Fit Persons to discharge it; for though Opportunities tempt men, yet the Impressions are made according to the Temper and Inclinations of the Parties. Now at this time, as well otherwise, as from this Law, it appears, that the worst of men, and most covetous aspired after the Office of *Curiosus*, to have the greater Opportunity to commit Rapine, and Disorder. To prevent such Avarice, and self-seeking, *Constantinus*, in the Second Place ordains; That none be preferred for his Ambition by Suffrage, or Favour, but according to his Course, and his Merits in Service, by the Judgment of the *Schole*, that is, the Body or Company; so that (through Knavery) nothing be kept from the Knowledge of the Prince of all that they had Learnt, or Discovered. For there were two Things the *Curiosi* were in those times, employed in, viz. the Management of the *Cursus Publicus*, and also that of Intelligence; whereupon they had the Titles of the Eyes of the Prince, of *Exploratores*, and were said *Curas Reip. agere*, whence they were also called *Curagendarii*. But further; that they might have no Pretence to Burthen the Country, he will have them know what they should demand, and no more; viz. for every *Rheda* one *Solidus*, in such Provinces only, wherein the Country was at the Charge of the *Cursus*; for in some the Country was to be at the Expense, and in others it was managed by Money Issued out of the Treasury at this time. And lastly, for to husband well the *Cursus Publicus*; as also, perhaps out of Respect to the High-ways, he tells them; that no Traveller must expect or hope for any more than one of that sort call'd *Clabularis*, or *Angaria*, which was a great Waggon drawn with a Team of Oxen, for Conveyance of Families, (as we have noted *Julian* to have granted the Use of it to the Souldiers, who were then destined to march into the East) it carrying fifteen hundred Pound-weight Not long after, viz. the last day but one of the Year, he gave out another

Vide Gothofred. in L. 5. de Curiosis Cod. Th. Absit hac Lex a Cod. Justiniani.

Ita ut nihil vestri Principis, ex his que geruntur in Rep. videritis, notitia subtrahatis.

L. 5. ejusdem Tit. Cod. Th. Absit etiam a Cod. Justin. Rhedas i. e. inquit, quas Rhedrigas, vel Flagella appellant. Flagella quod uno Flagello, vel Aurigæ reguntur.
Vide Com.

And Enacts several other things about the *Curiosi*.

Con-

Edict. 4. Constitution to the Senate of Constantinople concerning the *Prætorship*; not in reference to the setting forth of Games, or Publick Works, which all his former respect-
ed; but to Jurisdiction, whereof he names five points, which, because they belong rather to the *Jus Privatum*, than the Politic or Government, are not proper here to be insisted on. But besides this Business of the *Prætorship*, by this Constitution (divided now into several parts) he provides that Appeals should lye out of *Bithynia*, *Paphlagonia*, *Lydia*, the *Hellepont*, the *Islands*, *Phrygia Salutaris*, *Europe*, *Rhodope*, and *Hemimont*, that is, the nine *Suburbicarian* Provinces, to the *Præfess* of this City. For now, first of all, he removing the *Duumviri*, ordained a *Præfess* of Constantinople, in the latter end of this year, viz. *Honoratus*, who had been *Præfess* of Gall; and therefore sent this Oration, as it's term'd (or Constitution) to the Senate, for limiting the several Jurisdctions of him and the *Prætors*. In Name, and other Privileges, *Constantine* had made this his new City equal to *Rome*, but it was not yet like it, as to Government: therefore *Constantius*, his Son, who had a great kindness for it, and perhaps some more, because it was Founded at the same time that he was made *Cæsar*, gave it a Single Governour, that in this respect it might be equal with *Rome* and *Alexandria*; and for the more Honour, bestowed on him the Title of *Præfess*, the same that he of old *Rome* enjoyed; for why he should be first *Consularis* of *Byzantium*, when the Laws Extant give him the Title of *Præfess*, there is no Colour, but a Mistake of *Pancroolus*.

akes a *Præ-*
f of *Constan-*
uple.

94. Some six weeks after the Date of this Law, viz. the day before the *Nones* of *February* of the following Year; when *Constantius* himself, the Tenth, and *Julian*, the Third time, were *Consuls*; by another Edict he obviated an Abuse, frequently committed in those Times; upon Complaint of *Helpidius*, who was now *Præfess* of the *East*, and consequently, had the *Dioecese* of *Ægypt* within his District. It was the Custom for the Inferiour sort of People, as Husbandmen, when they found themselves burthened by Tribute and Impositions, for shelter to betake themselves to the Protection of Great Men, under whose Wings, or in whose Houses, having Refuge, they often escaped Scot-free; not only to the great Defrauding of the Treasury, but the loss of their Neighbours, whose Lands adjoynd to theirs, and who were bound to make up the Sum required of the Village, if from the true Proprietors it could not be had. But this was not all. From an Ease, this Custom grew to be a greater Burthen to these poor Men: for the Great ones, whom they chose for their Patrons, would, for greediness of Gain, make their Ends and Markets out of their Necessities; and so much, that it often proved their Undoing, and became a mighty Grievance to Miserable People. Now *Helpidius* observing how in *Ægypt* the Publick Revenue rising by Tributes, was hereby Diminished, or possibly that quantity of Corn, which of late years had been imposed upon that Fertile Countrey (as we have already hinted) for the Maintenance of Constantinople, the raising of which was under his Charge, acquainted *Constantius*, how the Husbandmen (Free-holders, not Farmers) sheltered themselves under the Patronage of the Great ones of that Country; and particularly under the *Duces* themselves, viz. those called *Duces Rei Militaris per Ægyptum*, as of *Lybia* and *Thebais*, of whom heretofore.

ovides by an
list, against
Abuse com-
mitted by the
usbandmen
Ægypt.

Now by an Edict directed back to him by way of Answer, to save harmless the Treasury, and the Neighbours of such as plaid least in sight, he Commands, That such Persons as afford such shelter to Obnoxious men, be constrained to pay what was due to the Publick from them: and also that the Persons so received be taken utterly, or separated, from them. And so much doth *Constantius* to restrain this Custom, against which, succeeding Emperours did more Severely provide, as we may see hereafter. Towards the latter end of the same Month of *February*, he made another Law for the Encouragement of *Scholars*; Ordaining, That none should be admitted into the Chiefest Place of any *Decuria* in *Rome*, except he was well seen in the Liberal Studies, and in Eloquence. And for this purpose he will have *Julian*, the *Præfess* of that City, to whom he gives the Title of *Sublimitas* (who was, as the Head of the People and Senate of *Rome*, so also chief Commander of the *Decurie*) to present the Names of such Persons to Himself, that he might have the Preferring of them. Now by *Decurie* are meant certain Companies or Bodies of Men, who were Employed in Matters relating to the Consultations and Decrees of the Senate, of whom the chief Scribes were in great Repute. For they framed the Acts and Decrees; and to them the Publick Records were of old committed; so that being skill'd in the Laws, they were Assistant, and gave Directions to the Magistrates in the Management of their Offices.

95. In the mean time, *Julian*, still lying at *Paris*, had his Thoughts at work; for he could not but imagine how well the News of his late Preferment would

A. D.
260.
L. 16. de *Præ-*
toribus, &c. Cod.
Th. unica hæc.
Lex ex hinc 78.
in Cod. Justin.
relata est, inter-
polata vide
omnino Com.
Gothofr. in L. &
Chron. Histo-
ric. ad hunc
Annum.
A. D. 359.
Constantii
22. Eusebio
& Hypatio
Coss.
A. D. 360.
Constantio
A. 10. &
Juliano Cæs.
3. Coss.
L. 1. de *Patro-*
ciniis Vi. rum
Cod. Th. lib. 11.
tit. 24. i. i. i.
vid. Non. Fabr.
Constantinop.
Constantio A.
10. & Jul.
Cæl. 4 Coss.
A. D. 360.
Abest hic tit. 2
Cod. Justin.
Vide Gothofr.
in L.
Ne autem Li-
teratura (qua
omnium virtu-
tum maxima
est) Premia
denegentur, &c.
L. 1. de *Decu-*
riis Urbis Ro-
mæ, Cod. Th.
lib. 14. tit. 1.
Dat. 6. Cæl.
Mart. Constanti-
nop.
Accepta 11.
Mart. Rom. 82;
post die.
Abest a Cod
Justin.

Self. 4. be taken by *Constantius*, by considering what he himself should have thought of it, if one that he had Advanced should have been made Emperour by a handful of Souldiers, without his consent or knowledge. He thought it best to send some to him whom he could trust, with Letters so worded, as if possible, to assuage his Indignation. These Letters, Humble, and yet Stout enough (if *Ammianus* word them not for him (as often Historians make bold with Letters and Speeches) expressed in the first place, what great Labours and Dangers he had undergone in that hard Service he had thrust him upon, wherein he was the first that went on, and the last that came off. That what had lately happened, the Souldiers had partly done, in reference to his Deserts, and especially Enraged at the thought of Quitting their Country and Families, and being forced into so Remote Parts. That, as for him, he had Resisted them in what they went about, with his utmost Will and Power, and so long, till they Threatned him with Death; and when he did yield, it was not without a Conflict within himself, and an Apprehension, that had he Died in his Resolution, the Honour might have been put upon some other, who Gladly would have received it. Then he prays him to pardon him, and accept this Excuse in good part, promising by his Demeanour to shew himself not Ingrateful. He tells him he will find *Curule Spanish* Horses, also some Choise young men, born of *Barbarians* on this side the *Rhine*, or else of such as had yielded up themselves, to mix amongst the *Gentiles* and *Scutarii*. For his Officers, he would receive such *Præfidi Prætorio* as were known to be Honest and Able, as he should direct; but as for the Ordinary Judges, or Magistrates, Commanders in the Army, and his Guard, he thought it reasonable, that he himself should make choice of them, seeing they were to be trusted so near about him. He adds, that out of *Gall* there were no thoughts of having any Supply for Distant Places, that Countrey had so much work within it self; neither was it at all convenient to send any Natives of it, at this time, against the *Persians*, when it was so Harassed by continual Disorders, that it stood in need of Assistance from other Provinces. And concludes with putting him in mind, how great Advantages Concord and good Understanding between Princes have procured. This was the Tenor of the Letters, he openly owned; but *Ammianus* tells us, that together with them, he sent others more secret, privily to be presented to him, which contained chiding and biting Language; the Contents whereof it was, neither lawful for him to Inquire after, nor decent to make Publick. Out of respect to whom? I am afraid, not to *Constantius* (we find no such squeamishness when he talks of him, but over and over a Rehearsal of every minute particular almost, that can make against him) but to *Julian* himself. For this Employment certain Grave Persons were made choice of, viz. *Pontadius*, his *Magister Officiorum*, and *Eutherius*, the *Præpositus Cubiculi*, who, after the delivery of the Letters, were to tell what they themselves with their own Eyes had seen, in reference to his late Preferment; and were of Understanding how to carry themselves so, as might most sute his Interest.

96. But they went upon an unacceptable Errand. It hapned the worse, that *Florentinus*, the *Præfidi* of *Gall*, was gone away before; who, upon hearing that the Forces were sent for, out of Apprehension of some Disturbance thence likely to arise, went to *Vienna* under Pretence of Purveyance for the Army. But it was indeed out of Fear of *Julian*, whom he had disoblighd; and when he had the News of his being saluted Emperour; despairing of Life, he left his Family, and got him away to *Constantius*, to whom, that he might excuse himself, he accused him as a Traytor in an high Measure. Yet *Julian*, after his Departure, did not at all molest his Relations; but on the contrary, allowed them the Use of the *Cursus Publicus*, for removal of themselves in Safety into the East. The Ambassadors after a tedious Journey through *Italy* and *Illyricum*, at length got over the *Bosphorus*, and found *Constantius* at *Cæsarea* in *Cappadocia*, formerly known by the Name of *Mazaca*, a famous City conveniently seated at the Foot of the Mountain *Argæus*. Being admitted to Audience, the Emperour, upon perusal of the Letters, fell into a very great Passion, and with a menacing Countenance, which seemed to threaten no less than Death, commanded them to be gone out of his Presence, refusing to hear any more of the Business they came about. And now did he fluctuate much in his Thoughts, whether he should proceed in his Journey against the *Persians*, or turn back to Chastise his ambitious Kinsman, as he esteemed him; but the Advice of the Wiser sort prevailed, and he gave out Orders for the Expedition into the East. Upon further Consideration he presently dismissed the Messengers, and sent away *Leonas* his *Questor*, into *Gall*, with Letters to *Julian*, wherein he Signified, that he had pardoned him as one, who he thought would not make any Innovation; and he

Privately, for
himself, to
write the
Emperour, a
Letter con-
cerning his
own Affairs.

Privately,
either, in li-
ving Language.

Constantius
is absent.

Sect. 4. he advised him, if he had a regard to his own Security, and that of his Friends, to humble himself, and be content with his former Dignity of *Cæsar*, to which he had in a Legal manner attained. And to strike the more Awe into him, and to let him see his Power and Resolution, he promoted *Nebridius*, who was *Questor* to *Julian*, into the Place of *Florentius*, the *Præfēt* of *Gall*, *Felix* the *Notary* to be *Magister Officiorum*, and some others he named to other Places; having, before any thing was known of *Cæsar's* Innovation, nominated *Gumoharius* the Succellour of *Lupicinus*, to be *Magister Militum*. *Leonas* coming to *Paris* was well received, as an Honourable, and Prudent Person, and the day following *Julian* went to the Camp, where he had caused to be assembled all the Souldiers, and a great Multitude of the Place. There, standing upon his Tribunal, he commanded the Emperour's Letters to be read, and when those words came to be Rehearsed; that *Constantius* disapproving of all that had passed, thought it was very fair for him to content himself with the Dignity of *Cæsar*; they all cried out, with a terrible Noise; *Julian Augustus*, as both the Countryman and Souldier, and the Authority of the Commonwealth hath decreed, which hath indeed been relieved; but still apprehends the Danger of new Invasions to be made by the Barbarians. With a Report hereof, and other Letters from *Julian* importing the same was *Leonas* sent back (and in Safety too *Ammianus* tells you) and of all those nominated by *Constantius*, *Nebridius* was alone admitted to the Place of *Præfēt*, according as *Julian* had formerly written, that he would receive such as he should recommend into that Office. But he had already ordained *Anatolius* to be *Magister Officiorum*, from being his *Libellorum Magister*; and others he advanced, as he thought it most conducing to his own Safety, and Interest. And whereas he stood in Fear of *Lupicinus*, though now absent here in *Britain*, being a man haughty, and Stomachful: so that if he came to know any thing that had passed, in Probability he would raise Commotions in the Island, where he might have Opportunity enough to Levy men. He sent a certain *Notary* to *Bononia* or *Bul-loigne*, with Orders to look carefully, that none passed the Sea; whereby it came to pass, that he had not the least word of any Alteration, till he went back into *Gall*, and could make no Disturbance; and so all Danger from his Authority and Interest was prevented.

The Army will have him retain his Title, and he writes back accordingly.

Zosimus his false Relation about this matter.

97. So did *Julian* carry himself in Relation to this new Honour, which was forced upon him, sore against his Will; at least, as he pretended, according to the Relation given us by *Ammianus Marcellinus*, who living in those Times, being himself employed in Business, and a great Friend to him, as any may easily perceive, scarcely can be thought to pass by any thing material, especially what would make for his Reputation. With him agrees fully, in things of this Nature, *Zosimus*, of whom we have so much spoken, and much more must. He having told the same Story concerning the Envy of *Constantius* toward *Julian*; and how he sent away for the Souldiers out of *Gall*, adds further, that *Julian* having herein obeyed him, he was not content with the Numbers he first wrote for, but required four Regiments more to be sent. Then relating, how hereupon the Souldiers Mutined, and how he was made Emperour by them against his will; whereas *Ammianus*, from his very Letters Acquaints us, how he desired only to be Excused for accepting the Title of *Augustus*, as put upon him against his Consent; but still that with his good Leave, he might retain it. He tells us another Tale, that he, of his own Accord, offered to (a) Quit it, and Content himself with that of *CÆSAR*: and though *Ammianus* says, that *Constantius*, writing back, Advised him to satisfy himself with the Dignity of *Cæsar*; *Zosimus* tells us, far another Story, as that he Commanded him to Quit (b) that of *Emperour* and *Cæsar* too; and being satisfied with a Private Life, Resign himself wholly to his Disposal; if he regarded his Safety. Hereupon, *Julian* openly Declared his Opinion, as to Religion, in the hearing of all; affirming, that he would rather trust the Gods with his Life, than rely upon the Words of *Constantius*. And *Constantius* now made Preparations for a Civil War, but as for *Julian*, he was much troubled to think that he should Fight against him who had raised him to the Dignity of *Cæsar*, and thereby, with many, incurr the Censure of an Ingrateful man. A Probable Matter! that *Ammianus*, who was, as it were an Eye-witness, should not better understand the Affairs of those Times, and of the greatest Concernment, than *Zosimus*, who was scarcely born many years after. *Julian* wrote two sorts of Letters to *Constantius*, when he Excused himself; the one Publicly owned, and the other Secret. Of those known, *Ammianus* gives us the Draught, and therefore might and durst pry into them, though not into the other. And can we believe *Zosimus* got a sight of the Secret ones? or can any man imagine, if he had, that in them which *Ammianus* affirms to have been Objurgatory and Biting, he would

A. D.

360

Callidè excu-
sat saltum Ju-
liani, qui Lu-
picinum ex
Britannia re-
versum compre-
hendi jussit, &
in Libera cu-
stodia habuit
cum aliquot
aliis, quod
Constantius
objiciebat
Juliano. 171.
L'alefiam in
locum.

(a) ἑτοίμοις
ἐπασκεύειν
τὴν τῷ Καίσα-
ρος ἔχον ἀξί-
αν ἀποθέμενος
τὴν διαδήμα-
(b) ἀποθεῖσθαι
πρὸς τῷ Βασι-
λεῖα καὶ τὸ τῷ
Καίσαρος χά-
μα κατασάν-
τα δὲ ἰδιώτην
ἑαυτὸν τῇ τρο-
φῇ αἰρεῖται τῷ βα-
σιλεῖ, ἐκ τῆς
171.

Sect. 4. would more compliment with the Emperour, and gratifie him therein, with an Offer to lay down that Title of *Augustus*, which in the other, that were neither ob-
 jurgatory, nor biting, he endeavoured to have his Consent, that he might Retain. A. D. 360.
 But this Man, whom they would have so perfect in Vertue, he endeavours to clear of Ambition; not only in that he was unwilling to have admitted the Honour, being merely passive in it; but also that he was content to have laid it down again, so idely improbable, that he himself confutes it, allowing *Julian's* Principles, and him to have been so discreet as they will have him. For, considering the inconstant and perfidious Humour of *Constantius*, as *Zosimus* paints it out, it would have no way been safe for him to do it; for very few escape with their Lives, when reduced to a Private Condition, who have once acted the part of a Sovereign.

Reasons why
 it is not to
 be credited.

98. And partly upon this Account, what they talk so much of, his Unwillingness to Accept the Title of Emperour, I must confess something sticks with me, though there be other Arguments still against it. For, *Constantius*, being a man so Jealous and Severe as they make him, *Julian* had a very great Temptation to admit gladly of such an opportunity of Securing himself against the Practices which the malicious Whisperings and Insinuations of his Courtiers had procured against so many other Persons. His Brother *Gallus* had, though Criminal enough, Miscarried under the weight of this Suspicious Humour: and though his Carriage and Demeanour was quite of another sort; yet, if *Constantius* was made to believe otherwise, and that he Dissembled, could there be any Fence against his Fear; who had taken out of the way, moved by that Passion, all his other Relations? And doth not the whole carriage of *Julian* towards the Army much inforce this Belief? What would have been said to him at *Rome*, had he lived there, and so caressed the People, when the *Tribuni Plebis* were so Quick-sighted? Verily he would hardly have escaped the *Tarpeian Rock*; but been esteemed as guilty, as those who for their seeking after Popularity, by courting the Rabble, were condemned, as evidently affecting Sovereign Power. Did ever any Tyrant in *Greece*, by a more fawning or endearing Carriage, wind himself into the Supreme Authority, than he used that very Night before he was declared Emperour by the Souldiers? First they must take *Paris* in their way, where he Quartered; at what time they were to go for the *East*. But we are told this was at the Suggestion of *Decentius*, the *Tribune-Notary*, who had been sent by *Constantius* to fetch them: be it so, though perhaps one less suspicious than *Constantius*, would hardly believe it (weighing all Circumstances) yet a Person, who was utterly unwilling to accept of the Title; and who had it once, by the Bye, partly offered him before, upon the Borders of *Gall*, as *Ammianus* writes he had, would scarcely have admitted that Suggestion: for he could not but imaginē, how unwilling they would be to quit their own Country (which in his Letters he so much inculcated to have stood in need of their Presence) how thereupon they might be prone to Mutiny; and having formerly had an Inclination to put upon him that unwelcome Honour, would now by Indignation and Disdain against *Constantius*, and Love toward himself (which longer Knowledge, and fighting together had confirmed) be hurried into a firm Resolution of doing it. But so far was he from having them march another way, and being afraid of the Temptation; that as if Fearful they should take another Road than that leading to the Place where he lay; whereas he might have made many Excuses, he goes out to meet them, and as his Custom was, falls on praising such of them as he knew, and putting them in mind of their former brave Atchievements; and with gentle Words exhorts them to go, and receive their Rewards from the Emperour. After this he invites their Officers to Supper; and not only kindly entertains them with Meat and Drink, but will needs know what he can do for them. Good Meat and Drink, when sauced, especially with fair Words and Promises, have their Operation, as well as good Medicines. This it seems wrought upon them. *Ammianus* tells you, that being so nobly entertain'd they went away; surely Frolick and Merry, after so much good Chear; no; very sad, and in Suspense. Why? Upon a double Account; not only because they were to be sent out of their own Country, but have the Ill Fortune also to be deprived of so gentle a Commander; and burthened with this Grief, they went away to their Quarters. Now Grief must have vent, or worse will come of it. In such pain they were, to return one good Turn for another, as well as to secure their own Concernments, that they could not stay till next morning; but this very Night, nay at the beginning of the Night, they mutiny, and as *Zosimus* tells us, with the very Cups in their hands, having by Papers dispersed, irritated the Common Souldiers; therein telling them, that *Cæsar*, who by his Stratagems had pro-

Qui liberaliter
 ita suscepti, di-
 lore duplici
 suspensi discess-
 runt & nulli
 quod eos For-
 tuna quadam
 inclemens &
 moderato Re-
 flore, & Ter-
 renalibus
 dispararet.

pro-

Sect. 4. procured to them in a manner all the Victories they had got against the Barbarians, and who in Fight could not be distinguished from an ordinary Souldier, was now brought into a dangerous Condition; the Emperour by Degrees stealing away all his Forces, except they all would agree to hinder their Going. Hereupon, with the Cups still in their Hands, they ran to the Palace, and taking him up upon a Target, made him Emperour. A. D. 360.

99. These Passages vehemently insinuate how great a Desire he had, either to obtain or escape the Honour; the one of them; but let the Reader himself Judge which of the two. And this he will the more easily do when he considers, yet other Circumstances. Had the Honour been a Burthen to him, and he had so unwillingly admitted it; then indeed, as *Zosimus* fables, he would probably have been content to lay it down; but now, besides what his Letters signified concerning his Care and Endeavour this way; see how he labours to induce the Souldier to give way to it. Do not you expect he should fall into a Rapture, in Commendation of his dear Philosophy, from which he had been so unwillingly divorced, and of the Satisfaction of a studious and retired Life? On the other hand recount the Toil, and Danger, to which he should be exposed by admitting of their Kindness; and above all the Ingratitude, which he having both the Repute and Conscience of a vertuous man, could not but abhor (as *Zosimus* tells us it troubled him above all things) of which he should be at least thought Guilty, by accepting of the Title without his Consent, who only could legally Bestow it, and who had advanced him to that Degree already, which had been the Step or Stair to mount to this? No; the very next Morning (and possibly seasonable it was, lest that Averseness and Chagrin he had shewed, should make any Impression upon the Souldier) he calls his Patrons together; and instead of excusing himself by Disability, falls into a Panegyrick of himself, of his own glorious Atchievements, than which no flattering Orator of those times, his *Libanius*, or any other could have said more. He praised himself contrary to the Rule; for his Friends were not slow. He rubbs up their Memories in telling them, that since his Preferment to be *Cesar*, he never was diverted from a purpose of doing well: How at the Destruction of Cities, and Slaughter of Enemies in the Field, he ever was present; and when Arrows flew the thickest, at the Battel of *Argentoratum*: And this, he says, its neither Fit nor Just, that he should say nothing of it. Now whither tends all this, and the Inculcating so much, that they had so Fought, and ventured their Lives together? By these Endearments, and by this Love, which such Common Labours and Dangers had procured, to oblige them to grant him the Favour, that they would permit him to divest himself of that Purple which sat so uneasy upon his Shoulders? Indeed he makes Use of this to press them to something, by which they should get *Immortal Fame*, in shewing Kindness to their General: But how? Even by fully Defending him, whom they had lately Adorned with an higher Degree of Majesty, by their Valour and Gravity, if any adverse thing should happen. Now surely this was not, that in Case *Constantius* would not permit him to quit the Title of Emperour, that they would Compell him so to do. Then it follows, that he promised them for their Encouragement, to be careful of bestowing Preferments, and with Hope hence conceived, the ordinary Souldier was much animated; having before experienced little as to Preferments or Rewards. And, what confirms all this, and Demonstrates how willing he was to part with the Title of Emperour (as *Zosimus* belies him) is the Answer he returned to *Constantius*, upon his bidding him satisfie himself with his former Condition. Had he been so averse to the Preferment, he would certainly have quitted his troublesome Army, and never have let them know, how much the Emperour's welcome Advice closed with his Inclination. But he calls them together, causeth the Letters to be read to them, and returns for Answer what they expressed concerning his Holding the Honour they had conferred upon him, with so much Stoutness and Indignation.

Post quæ opinor tanta & talia nec Posteritatem taciturnam de vestris in Romæ Meritis in Gentibus cunctis, si plene quem altioris fastigio Majestatis ornatis, virtute gravitateque, si quid adversum ingruerit, defensatis.

100. But enough, and too much of this Subject; concerning which, thou wilt, I suppose, Reader, receive more Satisfaction one way or other, before we have done with *Julian*. I have no Prejudice against him, but am bound and provoked to discover the Partiality of *Zosimus*, who to cry up him, because a *Pagan*, and to bespatter other Princes upon the Account of *Christianity*, generally runs cross to other Historians, both of his own Perswasion, and such as having been Eye-Witnesses, or as Good, relate Matters with all Circumstances in such manner, as *Ammianus* doth these: so as they cannot but gain Belief. We have seen from this Writer what things *Constantius* did against the *Sarmatae*, and the Northern Nations, inhabiting

Sec. 4. habiting beyond the *Danube*, or *Ister*, (for these two are the same River, though farther off called *Ister*, and near to the Sea, *Danubius*) how he Conquered them, made many of their Kings submit, and receive Conditions ; caused them to remove into other places ; And a man of ordinary Understanding would think and say, that for several years thus Harassing their Countrey, and lying so long in *Pannonia*, at *Sirmium*, or other Places to watch them, it was He that Curbed them, and the Awe of Him that Restrained them, and kept them within their Bounds ; so as he was the more Encouraged to undertake an Expedition against the *Persians*. No ; *Zosimus* will better inform you. It was *Julian*, even *Julian*, that they were afraid of. Why ? was he near them ? No. But these *Barbarians* inhabiting beyond *Ister*, out of Fear that he should press through *Gall*, and come over the River, and set upon them, contained themselves within the Bounds of Modesty. Upon this Account he tells you it was, that all *Italy*, nay *Illyricum* it self, so nigh to *Constantius* his Quarters were out of Danger. Thus must we argue if we admit of the Opinion, *Chronologie*, and Order of things given us by *Zosimus* ; who tels us also further News, viz. of *Julian*'s rare Success, not only amongst the *Celte* but the *Spaniards* too, and how herewith *Constantius* was netled, and cast in his mind how to pull him down. And News this is indeed, for in that Account we have from *Ammianus*, he tels us all the Journeys of *Julian*, to what Places he still marched ; where he fought, and where he quartered in Winter ; whereby it's evident that he could not, since the time of his being *Cæsar*, step into *Spain*, except *Spain* leapt over the *Pyreneans* into *Gall*, and the River *Iberus* ran through the Ocean into the *Rhine*, near to which his Business chiefly lay against the *Germans*. But it was almost as easie for this Historian, by his *Magical Geography*, to transport *Spain* into *Gall*, as he doth the City of *Paris* into *Germany*. And who ever would have thought, that what he wrote could have travelled so far Westward ? He wrote about *Constantinople* of things far distant, both in Place and Time. Then, and there it was Manners to believe him ; and though in respect of Time and Place both, by comparing other Writers, he might come to be discovered, yet few would be at the Trouble ; however, as to the Places, there was Hope they would rather believe him, than go and see.

Καὶ Ἰταλὶα
πᾶσα καὶ Ἰλ-
λυριοὶ κινδύ-
νον εἶχον ἐλ-
θεῖν τῶν ὑπὲρ
τὸν Ἰστρὸν Βαρ-
βάρων διὰ τὴν
μετὰ τὰς Γαλα-
τίας τὸν Καί-
σαρα διαδάν-
τα τὸν Ἰστρὸν
αὐτοὺς ἐπε-
θεῖν ἐν σωφρονέ-
ταιν.
Τῇ δὲ τῶν ἐν
Κελτοῖς τε καὶ
Ἰσπανοῖς πρᾶξ-
ματῶν εὐφη-
μία δακρυό-
μενος.

Other Extra-
vagancies in
Zosimus his
History.

Julian falls
upon the
Franks call'd
Atthuarii.

Reduces, with
them, the *Rau-
raci* into or-
der.

Constantius
courts *Arfaces*
King of *Arme-
nia*.

Marches East-
ward.

101. But that we may betake our selves to our best Guide *Ammianus Marcellinus* again, and follow *Julian* in his Atchievements. Being now more encouraged by his Advancement, and the Trust he reposed in his Army ; lest he should cool in his Spirit, or be censured as Remiss, and lazy thereupon ; after the sending away of the Ambassadors to *Constantius*, he marched away to the Borders of *Germania Secunda*, and having passed the *Rhine*, suddenly fell upon the *Franks*, call'd *Atthuarii* ; a Restless People, that had lately wasted the Limits of *Gall*. He surprized them little thinking of any such Matter ; and trusting to the Country they inhabited, which was so difficult of Access, that they had not remembred any Prince to have reached so far as their Villages ; but surprized at this Disadvantage he easily master'd them ; and having kill'd and taken many, constrain'd the rest to submit to such Conditions as he himself pleased to Impose. Hereby he concluded he had provided sufficiently for the Quiet of their Neighbours within the *Roman* Pale ; and then passing the River with as much Speed, as he came over, he reinforced the Garisons upon the Borders ; and having settled Matters in them as he thought convenient, came to the *Rauraci*, where he recovered some Places formerly got by the Enemy, and having fortified them sufficiently ; by the way of *Besantio* went to *Vienna*, there to Winter. While he so cautiously and prosperously ordered his Matters in *Gall* ; *Constantius* had Notice how the *Persian* King laboured to withdraw *Arfaces*, King of *Armenia*, from his Alliance with the *Romans* ; neither omitting any Threats, nor other Means he thought would conduce to his End. Therefore he most kindly Treated *Arfaces*, being come to his Presence, and laboured to persuade him to entertain no Overtures, which should be made in any kind, tending to the Breach of that good Understanding which hitherto had been betwixt them two. He in return, by many Oathes affirmed, he would rather lose his Life than falsifie his Word, and returned with great Gifts into his Kingdom, where he kept his Promise, being indeed obliged to *Constantius* upon several Accounts, and particularly, so he thought himself, for his having given him in Marriage *Olympias*, the Daughter of *Ablabius*, once *Præfectus Prætorio*, a Lady that had been espoused to his Brother *Constans*. *Arfaces* being gone, the Emperour departed out of *Cappadocia*, and by the way of *Melitina*, a City of *Armenia* the less, by *Lacotena* and *Samosata*, came to *Euphrates*, and passing that River, at length to *Edeffa* ; where he staid a long time, expecting his Forces and Provisions for the Army, and not till after the Autumnal Æquinoctial, departed for *Amida*.

Sect. 4.

102. Being some near the Walls, and beholding the great quantity of Ashes that lay about them, he both Sighed and Wept; considering what Slaughter of men had been made before, and in that City. And it hapned that *Ursulus*, who at this time had Charge of the Treasury, being present, fell into a Great Exclamation, though upon another Account. Behold, saith he, *how Courageously Cities are Defended by the Souldier, whom the Wealth of the whole Empire is scarcely able to pay his Wages.* Which Speech being afterwards remembered by these Forces at *Chalcedon*, it cost him his Life. Thence did *Constantius* with a great Army march to *Bezabde*; before which, having encamped himself, he understood that the place was much more Fortified than it had been in times past. He sent and offered to the Garison, either free leave to depart to their own Countreys, or else to Accept of kind Entertainment in the Empire; but they looked upon themselves as too high born, and esteemed it unworthy of their Quality to accept of his Offers, and addressed themselves to a vigorous Resistance; which they performed with that height of Resolution and Constancy, that after several Attempts made to no Purpose, the besiegers despaired of Success, and were much dejected. On the tenth day of the Siege, a greater Ram than ordinary was moved to the Walls, which struck Terror into those that were within; but they so much Disabled it, partly by casting down Pitch upon them that wrought at it, and by several Sallies they made; that though they were forced still in again, yet did they burn at length all the rest, that endangered the Wall; and this great one was saved, and drawn off, but so as it was half consumed. This made the Besiegers betake themselves to the Mounts they had raised at more distance, on each of which were planted two *Balista*: and they brought their Scaling Ladders, and all other Materials, for the most effectual Attacque that could be made: The Defendants perceived they were now in the greatest danger their condition could cast them into; and therefore, not regarding Life, out they issue at a Postern; some with their Swords, and others following them, carrying Fire, who with it did such Execution, and so Pertinacious they continued, that it much disturbed *Constantius*, not knowing what course to take. For, on the one side, it grieved him to think of Quitting this Place, both for his own Reputation, and for that it lay so convenient for the *Persians*, for Annoying of the Adjacent Countrey; but on the other side, Winter came on, and his men were utterly discouraged; which Inconveniences seemed greatest in his opinion, and moved him to break up his Siege, and return to *Antioch*, after having spent the Summer with so much Detriment to his Affairs. But this *Persian* War was ever Fatal to him, when he Managed it in Person; which caused him, now and then, to prosecute it by his Captains, and that, sometimes, with no ill Success.

ayes Siege to Bezabde.

Is constrained to raise his Siege, and returns to Antioch.

103. By it the Empire was not only Exhausted of Men, but the Provinces burthened with the payment of the *Lustralis Collatio*, which was added to the Publick or Military payment, by reason of the extraordinary Charge, which the necessity of the Times required, without the Fault of the Emperour, who made no other Defence than what he was bound to make, for the Preservation of his Territories against the Insolence of the *Persians*; and when in the Field, omitted not what was Incumbent upon him in relation to his Place. For, the Souldiers fought under his Eye, as *Ammianus* tells us, though scanty enough any thing tending to the Reputation of his Master, to whom he belonged as Domestick Protector. When the Army came to be Dispersed into its Winter-Quarters, it seems the number of the Sick, or Maimed Souldiers, was so great, that the *Cursus Publicus* was much burthened with the Conveyance of them. And therefore, when they took too great liberty in Pressing the Waggon, he Directed an Edict to *Helpidius*, *Praefectus Praetorio* of the East, Dated on the Sixteenth of November, in the fourth Indiction, whereby he Prohibits any one to make Use of above two Waggon (called *Angaria* and *Clabula*) in his way home, and each of which was to be drawn by four Oxen only, and this, but in case of his being sick. Now although in this Law there be no exprefs mention of Souldiers, yet must I take leave to Dissent so far from *Gothofred*, as to think Them Principally Concerned in it; however, I deny not, but the Use of Waggon was granted to others besides Them. But if we consider the Time, and the Circumstances thereof, when there must necessarily be, after so Dangerous an Expedition, so Tedious a Journey, and in that Season of the Year, so many Sick and Wounded Men amongst so Numerous Forces, how can we imagine, but there must be very great need of Carriages, for Removal of them; not to speak of that Hurry which must necessarily follow the Separating of an Army, the Conveyance of Arms and Baggage? Therefore, as History brings the greatest Light to Laws, and Laws afford the greatest Certainty to History; we cannot but

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L. II. de Lustrali Collatione, Accepta 6 Id. Junii Carthagine. Constantio A. 10. & Jul. Caf. 2. Cos. A.D. 360.

L. II. de Cursu Publico. Dat. 16 Kal. Decemb. Indictione 4. Abest à Cod. Justin.

Sect. 4. Conclude this Edict to have been occasioned by the Removal of Souldiers, and not to be understood concerning those, who having Discharged the Employment call'd *Munia Castrenſia*, within the Palace, returned home after their time of Attendance was Expired, as *Gothofred* understands it. And to this we cannot but Adhere; although afterwards, by another Law of *Valentinian*, it appears, that these Persons, without the Solemn License (called *Eveſtio*, and *Tractoria*) otherwise required, might, by shewing the Prince his *Dimissory Letters* alone, make Use of the *Cursus Clabularis*, for Removal of themselves and Families, for which it was proper, being drawn by a Teme of four Oxen, and carrying fifteen hundred pound weight. Here, in the Date of this Law, is the first mention made of Indictions in this Code; this was the fourth, the beginning of which is to be fetch'd from the latter end of this Year.

He publishes Edicts in reference to the *Cursus Publicus*.

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361.

104. While *Constantius* was engaged beyond *Euphrates* against the *Persians*, *Julian* still lying at *Vienne* in *Gall*, beat his Head, Night and Day, with considering what he should do, whether by all means possible to try, if he could bring him to admit and own him, as his Colleague; or by open Force to wrest a Compliance, and begin first; that he might carry the more Terror along with him. And on both sides he found himself pressed with Doubts. For how to trust him as a Friend, he knew not; and when an Enemy, he was wont to be Successful against such as set up for themselves; and especially, the Fortune of his Brother *Gallus* afflicted him, and made him hang in Suspense; when he remembred, how he perished partly through his own Neglect and Sloth, and partly, through the Frauds and Perjuries of those about the Emperour. But at length he resolved, it would be more safe to stand upon his Guard, and bid Defiance to him; his Humour being much more elevated, upon his Preferment. Therefore had he no Regard to any other nominated to Places, except *Nebrius*. He celebrated his *Quinquennalia*, or Games for his fifth year; and now put on his Head a stately Diadem glistering with Gems, whereas hitherto he had worn an ordinary Fillet, like to a Master of a wrestling School, clad in Purple. Having sent the Body of (a) *Helena*, his Wife to *Rome*, to be buried in the Suburb of the *Via Nomentana*, where *Constantina*, the Wife of *Gallus* had been interr'd, he set himself more firmly to march against *Constantius*, whom by the Art of Divining, wherein he was well skill'd, and by Dreams, he conjectured to be near his End. He laboured to make suitable Preparations, but without any Noise, that he might not be discovered: and to curry Favour with all sorts of men, he pretended still to adhere to the *Christian Religion*, from which he had secretly apostatiz'd; applying himself to the *Aruſpicina* and *Auguria* diligently, and other Ceremonies alwayes observed by Idolaters. But to colour this, he went to Church, particularly on the Feast of *Epiphany*, and there solemnly did his Devotions. Thus much we are told by *Ammianus*, who not only affirms him still, at this time, to have made an open Profession of Christianity; but instances in the very Day, whereon he was present at the publick Worship; viz. the *Epiphany* celebrated, as he saith, truly, by *Christians*, in the Moneth of *January*. Yet doth *Zosimus* tell us a Tale, that before this he had declared his Judgement openly for *Paganism*, when he received the Message from *Constantius*; affirming in the Hearing of all; that he would rather trust the Gods, than commit himself, and his Life into the Hands of *Constantius*.

Julian doubting what Course to take, at length resolves to stand upon his Guard, and bid Defiance to him.

Ammianus lib. 21.

Ita ipse Julianus ad Julianum Avunculum scribens: Dii ita iussuerant, ut ei bellum inferrem; salutem quidem polliciti, si parerem cunctanti vero perniciem.

(a) Alicam in Puerperis doloribus interitum in Palatio Juliani; alii Expulsum e Palatio scripserunt; qui dicitur, qui veneno a Juliani necatum esse dicerent, ut docet Libanius. Vide Valesium.

Ταῦτα ἀκηκοὺς Ἰουλιανὸς παρὰ τῶν Περσέων, εἰς τὸ ἐμφανὲς ἔδειξεν ἢν εἴχετο πρὶ τῷ Θεῷ προσάρεσθαι.

The *Almans* waste the Borders.

105. But while he pleased himself with the Hopes of good Success, and the Fruits he should reap by this Dissimulation and Cunning; his Thoughts were again discomposed by News he received from the Borders, when Spring was at hand, how the *Almans* from the Quarter of *Vadomarius* (which was not in the least apprehended, because of the League) wasted the Countries adjoining to *Rhetia*; and that with such Violence, that they left nothing in their way, but what was Pillaged and Defaced, and that far and wide. *Julian*, to prevent greater Mischiefs, which might arise from such a Beginning, sent away one *Libino*, a *Comes*, with the *Celte* and *Petulant*, which wintered with him, to take order for repressing them, as should be most convenient; who setting unadvisedly upon them, was killed in the beginning of the Engagement; and his men overpower'd by Numbers were put to the Rout. Here *Ammianus* tells a Story, upon Hearsay, how *Constantius* having made a Peace with the two Kings and Brothers *Vadomarius* and *Gundomadus*, after the Death of the latter, sent to *Vadomarius* under Hand, and willed him, as one he esteemed faithful to him, to waste the Borders; that *Julian* intangled with Cares of defending them, might thereby be kept in *Gall*; which he readily obeyed, being from his Youth, very expert in the Craft of Dissimulation; as afterward he abundantly shewed, when he Commanded as *Dux* in *Phenicia*. But being discovered, he

Si Fama soli admittenda: Fides.

sect. 4. he left off this Trade; for the *Notary*, he had sent back to *Constantius*, was seized by the *Stationary* Souldiers; and being searched, a Letter was found about him, wherein this was exprest amongst many other things; that his *Cæsar* had no Discipline; although continually in the Dispatches he sent to *Julian*, he gave him the Title of *Lord*, of *Augustus*, and of *God*. *Julian* concluding with himself, that great Mischief would ensue, if he was not by some means or other taken off, at length resolved upon this Course to effect it. He made Choice of one *Philagrius*, at present a *Notary*, but afterwards preferred to be *Comes* of the *East*; of whose great Prudence he had had good Experience; and amongst other Instructions gave him a sealed Paper, which he commanded him not to open, till he should see *Vadomarius* on this side the *Rhine*. He departed to the Borders, and pursuing what else he had in Command, *Vadomarius* came over the River, pretending to be in firm Friendship with the *Romans*, and utter Ignorance of the late Breach of Peace; to work a Belief of which, he promised to take a Meal with him that there commanded in Chief, to which *Philagrius* also was invited. When he came there, and saw the King, he presently remembred his Paper; and pretending some earnest Business, went to his Lodging, and breaking it open, after he had perused it, returned, and sat down amongst the rest. After Dinner he laid Hands upon *Vadomarius*, and committed him to the Custody of the Commander, to be safely kept at the Court of Guard; whence being afterwards sent to *Julian*, and made to know, how his Underhand-dealing with *Constantius* was brought to Light, he was conveyed away into *Spain*, lest he should make Disturbance in these Provinces, when *Julian* was gone into the *East*. For, very much elevated by so unexpected a surprisal of this King, he resolved now to break out into an open Revolt from *Constantius*; and that he might leave all in Security behind him, with Secrecy passing the *Rhine*, so unexpectedly fell upon the *Barbarians*; that he constrained them to ask Pardon, restore the Booty they had lately taken, and promise all dutiful Behaviour for the time to come.

Julian chastises them.

*Professâ palam
Defectione se
tutiorē fore
existimavit.*

106 Now resolving to use all Expedition imaginable, as that which would most conduce to his Design; and being encouraged by some Dreams, which he thought portended the imminent Death of the Emperour, for a better and more lucky Beginning, he sacrificed to *Bellona*. Then called he the Army together; and from his Tribunal with more open Confidence than formerly harangu'd to them. After a flattering and self-commending Entrance; he fell into a more large Commendation of himself, relating his Exploits against the *Germans*, to them that knew them already: how he had restrained their Invasions; made the *Rhine* passable to the *Roman* Armies, standing immoveable against the Excursions of those Powerful Nations: and trusting to the constant Valour of them, his *Great Fellow-Souldiers*. And the Provinces of *Gall*, he said, being Eye-witnesses of these vast Labours, and refreshed after such Slaughters of their Inhabitants, such continual and heavy Losses; would transmit them to Posterity, through Swarms of Ages. Now being compelled by the Authority of their Judgement, and the Necessity of Affairs, thereunto; for that he was exalted to the height of Majesty, by the help of *God*, and their Assistance, if Fortune but favoured him, he would attempt higher and greater things still; for that he would pretend so far, as to have approv'd himself to that Army, the *Æquity* and Valour whereof was Great and Famous; he being both moderate and Peaceable at Home, and in those frequent Wars he had waged, Considerate and Wary. After this *Encomium*; he told them it was his Opinion, and Advice, that they should make Hast, while yet the Provinces of *Illyricum* were not fenced by Garri- sons, to seize upon the Limits of *Dacia*, and afterwards govern themselves, as Opportunity should direct. And seeing, he said, it was the Custom, though of confiding Captains; he desired them to confirm their Concord and Fidelity by a Military Oath. For his Part, he would, as hitherto he had behaved himself, be very Diligent, and watch that nothing should be done Rashly or Lazily; and be able, if any should pry into his Actions, to discharge a good Conscience; attempting nothing willingly, but what should be for the common Good. And in the last Place, He belought them to take heed they injur'd no private Men, nor thereby blemished the Fame they had got by preserving the Provinces from *Ravage*, as well as by innumerable Slaughters of their Enemies. The Multitude was moved with this Speech, not otherwise than if it had proceeded from some Oracle; and being greedy of Innovation unanimously approved of what he said, by the horrible Noise they made, both by their Acclamations, and beating their Targets; calling him a *Great and Famous Captain*; and as they found by Experience, a *Fortunate Conquerour of Nations and Kings*. For indeed there were many Nations and

And resolves to march against *Constantius*.

To which purpose, he courts the Army after his usual manner.

*Magni Commi-
liones.*

*Per Atatum
Examina.*

4. Kings upon the Borders of *Germany*, where all these Exploits, his and theirs, were done. Then were they all commanded to take the Oath of Fidelity to him, which they did, putting their Swords to their Necks, in words conceived with direful Excrations, thereby engaging to endure all Extremities for him, if need should be, even to Death it self. And this was followed by all the Officers, except *Nebridius*, whom, being prefer'd to be *Præfectus Prætorio* by *Constantius*, he had admitted to the Discharge of that Employment. He alone refused, both stoutly and constantly; affirming, that he could not have the Conscience to bind himself by any Oath against the Emperour, to whom he was obliged by many Kindnesses. The Souldiers perceiving this, would have killed him; but *Julian*, conscious possibly of the gallant Fidelity and Resolution of the man, was so Just, as by casting over him his Coat, to protect him from their Violence. And afterward, when in the Palace, as he came by, he lay prostrate, and desired him to give him his hand, as a Pledge of his Security; he asked him what he should reserve for his Friends, if he suffered him to touch it; but bid him go in Safety whither he pleased. Whereupon he went away to his own House in *Tuscia*, and *Julian* gave the Signal for marching into *Pannonia*, rashly committing himself to doubtful Fortune, as his Friend *Ammianus* makes bold to say.

And gives the
Signal for
marching.

107. But let us see how *Constantius*, this Winter, behaves himself at *Antioch*, whether he have reason to say so much of his own Prudence and other Vertues. It's to be fear'd, he neither was Guilty of so Famous Exploits, nor so Wise, if he had done any thing (as perhaps he could say some little he had performed against the *Sarmatians*) as to make it so Evident and known by his Rhetorick. He had not been so great a Proficient in Study, nor so long worn the *Pallium*, as to say, *What's our Power, except Men know it? And Knowledge what? unless we show it.* Yet he had, at this time, the Hap to stumble upon something, which *Ammianus* cannot Reprehend. Though he was no Famous Captain, nor Conquerour of Nations and Kings, (for indeed upon the Borders of the *Rhine*, within *Germany*, there appears, within a little space, to have been more Kings, and consequently more Nations than beyond the *Danube*: all the Sons of Kings being Kings, as should seem by *Vadomarius* and his Brother, as at this day, with them all the Sons of Princes are Princes, and all the Sons of Dukes are Dukes, though not all the Sons of Emperours are Emperours) yet amongst many very Honourable Persons, several *Tribunes* came to Adore him, at his Return out of *Mesopotamia*. There was also *Amphilochius*, who had formerly that Command, and therein serving *Constans*, was more than Suspected to have made Mischiefe betwixt the two Brothers. He crowded in to be admitted to Kiss the Robe amongst the rest; but being known, was rejected and put by. Hereat the Company cried out, that he ought not any longer to Live, for that he was an obstinate Traytor; to which *Constantius* replied, (being milder, *Ammianus* tells you, than he was wont) *Do not so press upon a man, whom I believe to be Guilty, but not manifestly Convicted; but if he be, take notice, that under mine observation he shall be punished by the Doom of his own Conscience, which he will no way be able to deceive;* and so the Matter ended. The day after, were celebrated the *Circensian Games*, and this same *Amphilochius*, as well as others, became a Spectator, just opposite to the Emperour, at a Raile, which upon a great shout, when the Company pressed forward to gaze, brake down, and with the fall, though the rest were only slightly hurt, yet he was found dead, with the Rim of his Belly bursten; whereupon *Constantius* as having skill also in Predictions, much rejoyced. About this time he buried his Wife *Eusebia*, a Lady very beautiful; and humble, considering her high Quality. *Ammianus* tells us she excelled, both in the Beauty of her Body, and Manners; in that she rescued *Julian* by her most just Favour, out of Danger, and procured him to be declared *Cæsar*, as he had before related, who I am afraid had forgot what else where he has written concerning her procuring *Julian's* Child to be made away, by the Nurse, and tampering with his Wife to make her miscarry. Now did he take care of *Florentinus*, who upon *Julian's* Usurpation had fled out of *Gall*, preferring him to be *Præfectus Prætorio* of *Illyrium*, in the Place of *Anatolius* lately dead. And with *Taurus*, who at the same time executed this great Office of *Præfect* in *Italy*, he entred upon the *Consulship* for the ensuing year.

Ammianus observes one
mild action of
Constantius.

His Wife *Eusebia* dies.

*Cumque Taurus
idem Præfectus
Prætorio per
Italiam, Am-
plissimi susce-
pserat Insignia Ma-
gistratus.*

He makes
great Prepara-
tions against
the *Persians*.

108. Neither was *Constantius* behind hand in Preparations, both against a Foreign, and Domestick Enemy. To this End a Supply was added, both to the Legions, and the Cavalry, out of the men newly raised throughout the Provinces; and all sorts of Persons were burthened by the finding, not only of Men, but of Money, Clothes, Arms, Victuals, Carriage-Beasts and Engines, as our Writer tells us, which is strange, that the Provinces should furnish all these things in kind; as to which we

Sect. 4. we must have leave here to consult our Law-Books, wherein we find several of these Necessaries imposed upon the Countries, but others never so much as mentioned, but only as they were supplied out of the publick Fabricks. And whereas the Persian King could hardly be kept beyond *Tigris*, in the Extremities of Winter; it was imagin'd, as soon as the Weather gave leave he would again make bold with *Mesopotamia*, or the adjoyning Provinces. Therefore were Ambassadors sent away to the Kings and Princes, beyond that River, with great Gifts; especially to *Araces* and *Meribanes*, Kings of *Armenia* and *Iberia*, who were carrell'd with more than ordinary Presents, that they might not give any Assistance to the Persian. During these Disturbances *Hermogenes* died, and *Helpidius* was made *Præfekt* in his Room; a *Paphlagonian* by Birth, of a mean Aspect, and proportionable Elocution; but simple of Disposition, and without any Touch of Cruelty in so high a Degree; so that when *Constantius* commanded him once to put an innocent Person to the Rack, he gently desired him to take away his Power, and brought him to consent, that things of this Nature should be done by other Persons. Now was *Constantius* in a very great Strait, not knowing whether he should go to chastise *Julian*, or march against the *Persians*, who were expected on this side *Euphrates*: but after serious Debate with his Friends, he was advised to put a Period first, either by a League or Victory to the War near at hand, and then march against *Julian*, whom they and he both concluded they should conquer with as much Ease, as any Hunter what he is in chase of. Yet he endeavoured to strike an universal Terror, where ever he might have Occasion to move his Arms, and in Particular, lest *Africk* should be tumultuous, which, upon all occasions afforded great Conveniences to Princes, he sent thither *Gaudentius* the *Notary*, who had been formerly the Spy upon *Julian* in *Gall*, and who upon the account of Enmity to the Adverse Party, would, he knew, do what he could; as well as to Approve himself to the Emperour, who, as all Men concluded, would prove Victorious. Being Arrived there, and having communicated some of his Instructions to *Cretio* the *Comes*, and the rest of the Commanders; he made Levies of the best men he could raise out of the two *Mauritania's*, and therewith Defended stoutly the Coasts lying over against *Gall*, and the Parts of *Aquitain*. And herein *Constantius* was not mistaken; for so long as he lived, none of his Enemies touched that Countrey, although Forces lay about the Promontory of *Lilybaum*, to pass over thither, upon occasion. Taking Order for these and other Matters, he received Advice from his Officers in the *East*, that the Forces of the *Persians* were United, and their King in the Head of them, drew near to the River *Tigris*, it being utterly uncertain, what Course he would take. Alarm'd with the News, he quitted his *Winter-Quarters*; and taking along the Horse and the Foot, which he could trust to, by a Bridge of Boats he passed *Euphrates*, and went to *Edeffa*, a City well fortified, and abounding with Necessaries, where he staid till by his Scouts, he could discover which way the Enemy moved.

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361.

Fuit hic Chris-
tiano Cultui
dedatur; quare
non mirandum,
si eam Marci-
linus noster a-
cerbius perstrin-
xit; cui uxor
Aristanote fuit,
Mulier ob Pi-
etatem Eximi-
am celebranda;
eundem Helpi-
dium proscrip-
sit Libanius in
orat. adversus
Polyclom.
I'alestius in Loc.

Takes care to
secure Africk.

Julian makes
his great Offi-
cers.

His Stratagem
in his March.

The Effects
thereof.

104. In the mean time *Julian* departing from the *Rauraci*, sent *Sallust*, whom he had advanced to the Dignity of *Præfekt*, into *Gall*; and he ordered *Germanianus* to discharge the Office of *Nebrius*. Moreover, suspecting *Gnomarius*, as an old Traytor, who had formerly betrayed *Vetranio*, his Princely Master, he promoted *Nevita* to be *Magister Armorum*, and *Jovius* to the *Quæstorship*; *Mamertinus* he made his *Magister Legationum*, and *Dagalafrus*, his *Comes Domesticorum*, and on others he bestowed Places, as he saw convenient. Being now to pass through the *Martian Woods*, and near the Banks of *Ister*, amongst other things he was afraid, lest for his small Numbers he should be contemptible, and therefore took this Course: He distributed his Army into several Parties; sending some with *Jovinus* and *Jovius* by the Common Roades of *Italy*, and others, under Conduct of *Nevita*, through the middle of *Rhetia*, that being so spread, they might seem more numerous, and strike a greater Terror: a Course practised by *Alexander* the Great, and other skilful and famous Captains. But he gave them seriously in Charge to be very cautious in their March; and by Night to look well to their Watches, lest they should be surprized by the Enemy. And he himself passing the *Ister*, and taking another Course, upon Rumours spread abroad of these several Armies; all *Illyrium* was possessed with a Belief, that he was at hand, with all the Kings, and Nations of *Gall*, being elevated by his many Successes in those Provinces. Whereupon *Taurus*, the *Præfektus Prætorio*, got him away betimes, and by the Use of the *Cursus Publicus*, passing with Speed the *Julian Alps*, took along with him *Florentinus*, his Brother-*Præfekt*. But *Lucillianus*, who then commanded the Army in these Quarters, lying at *Sirmium*, upon Report of *Julian's* coming, was resolved to get his Men together, and make Head against him. He apprehensive hereof, made all the haste he could, and coming by Boat

Sect. 4. Boat to *Bononia*, a Place distant nineteen Miles from *Sirmium*, dispatched away *Dagalaiphus*, with a choise Party of men in the Night (which now was dark, the Moon being in her last Quarter) with Orders to bring him away to him by Force, if he made Resistance. Being surprized in Bed by a Company of Strangers, upon Mention made of *Julian*, as Emperour, he conceived what they meant, and submitted to them, though very unwillingly; and then being set on an Horse that came next to Hand, but just before swelling with the Dignity and Command of *Magister Militum*, was presented to *Julian*, as some mean Prisoner, being scarcely able to recollect himself in so great a Surprize and Terror. But when he saw the Purple offered him to kiss, he took Heart, and giving him the Title of Emperour, told him, he was not well advised, with so small Forces to trust himself in strange Countries; to which the Usurper replied bitterly, that he should keep this prudent Advice for *Constantius*; being admitted to this Favour of the Purple, not as a Councillor, but that he might be put out of his Fear.

A. D.

361.

He comes to *Sirmium*, having surprized *Lurillanus*, who Commanded the Forces there.

110. But he was so far apprehensive, as to understand there was great Need of using Speed in what he was about, the better to supply the other Disadvantage; and away he hasted to *Sirmium*, to which as he approached, multitude of all Sorts came out, as well Souldiers as others, to receive him; and with Lights, Flowers, Lucky Acclamations, and the Titles of *Augustus* and *Lord*, brought him to the Palace. He was much encouraged with so prosperous a Beginning, as that which promised greater things; and hoped, that moved by the Example of this so populous and famous a City, the rest would be induced to submit. The day following he pleased the People by the *Curule-Games*; and on the third, being impatient of further Delay, he took in *Succi*, a Place famous for its Situation betwixt the Mountains *Hemus* and *Rhodope*, whereof the one riseth from the Banks of *Ister*, and the other from the hithermost side of the River *Axius*. Having placed *Nevita* Governour here, he returned to *Nessus*, a Town of good Note, there to take further Order for his Affairs. Having met at *Sirmium* with one *Victor*, an eminent *Historiographer*, he preferred him to be *Consularis* of *Pannonia Secunda*, and honoured him, for his Learning and Sobriety, with a Statue of Brasse; who, a good while after, rose to be *Præfēt* of the City. Now bearing himself more high than ever, and concluding that *Constantius* would never be brought to any agreement, he wrote to the Senate, a bitter invective against him, wherein he ripped up his Faults, and laboured to bring him in Disgrace with that sort of men. And now he took Confidence further to fall foul upon the Memory of *Constantine*, his Uncle, whom, like a *Pagan*, he traduced as an Innovator and Disturber of the ancient Laws and Customs. He openly accused him, as being the first that preferred *Barbarians* to the Dignity of the *Consulship*. But of this he accused him (*Ammianus*, though his good Friend, tells us) both absurdly, and without Consideration. For whereas he should have himself shunned what he reprehended in others; within a little while he advanced to be *Consul*, one *Mamertinus*, neither in respect of his Life, Splendor, Experience, nor Fame comparable to any, whom *Constantine* had graced with that most eminent Magistracy; but on the contrary a man shallow, a Clown, and (what was least to be borne) cruel in his Office.

Falls foul upon *Constantius*, and the Memory of his Uncle.

Insulse nimium, & leviter.

Nec Vita, nec Splendore, nec usu, nec Gloria horum curisquam similem, quibus Magistratum deculerat amplissimum *Constantinus*; contra &c.

111. While he pleas'd himself in driving on his Designs after this sort, he received a Message, which a little interrupted the Contentment he took, in the Consideration of his own Wisdom, and other Endowments. Two of *Constantius* his Legions, and a Cohort of Archers, which he found at *Sirmium*, he had sent away for *Gall*, under pretense of publick Necessity, but indeed because he could not trust them. These marching slowly, and being utterly out of Humour, upon thoughts of the great way they had to march, and the Fierceness of the *Germans*, to which they must be exposed, fell to mutiny, at the Instigation of one *Nigrinus*, a Tribune of Horse, and born in *Mesopotamia*; and yet they carried the matter very close, till they came to *Aquileia*; but there shewed their Inclinations, seizing on that City, which for it's Situation, Wealth, and the Strength of it's Walls was very considerable; and the Inhabitants, to whom the Name of *Constantius* was very grateful, readily assisted them, so that they fortified the Place all the wayes they could, and prepared for Resistance of any Violence which should be offered them; further exciting the Provincials of *Italy*, to follow their Example in standing up for their Emperour as not yet dead, though his Kinsman had made bold already with his Shooes. *Julian* still lying at *Nessus*, having not in the least feared any Enemy at his Back, and hearing this City to have been often attacked, but never demolished, nor so much as yielded, was resolved to omit nothing of Fraud or Flattery, to draw

Two Legions and a Cohort of Archers seize on *Aquileia*.

In the Name of *Constantius*.

ut Superstitio.

sect. 4. draw it over to him, before any greater Mischief should follow. Therefore he ordered *Jovinus*, the *Magister Equitum*, who over the Alps was come into *Noricum*, to return with all Speed thither; and that there might be a sufficient Supply of men, he commanded all the Troops that came that way, in their March Eastward, there to be stopped. Not long after it was, that he received the welcome News of *Constantius* his Death, and thereupon passing through *Thrace*, he removed to *Constantinople*; and being often told, that what had hapned at *Aquileia*, was not much now to be fear'd; he removed *Jovinus* from that Service, to another, he thought more proper; and ordered *Immo* with other Captains to perform it in his Room. Now was Siege laid to *Aquileia*, which it was in Council resolv'd should first be summoned, but the Garrison was too obstinate to be won with fair Words, or Threats either. Hereupon they endeavoured to undermine the Wall, and vigorously attacked the City; but at this first Onset were beaten off, and foiled. This not Succeeding, and there being none found skilful enough to manage Rams, or other Engines of Battery, they betook themselves to this Device, of planting wooden Turrets upon Boats, joyned together, which lay on the River *Natiso*, running by the City, which being higher than the Fortifications of the Town, they hoped that thence with their missile Weapons, they should do great Execution; and besides the Men they placed on the Top, others they bestowed within the Body of these Towers; who Issuing forth, as they saw Occasion, by the Bridges they made for this Purpose, might easily Land, and while the Defendants were diverted by them above, attacke and scale the Walls; but the Device, though comparable to those of the Ancients, in the Opinion of *Ammianus*, could not take any Effect, by Reason that the Besieged so plied these Turrets with Fire and Combustible Matter, that they disabled the Engines, killed those that stood on the Top of them, for the most Part, and caused the other below to shift for themselves; but most Perished by the great Stones cast upon them.

Which Julian his men siege

A. D.

361.

Where they had notable opposition.

The Defendants holding out, till satisfied that *Constantius* was dead.

112. This done, they gave themselves to rest on both sides, for some time; but afterwards, though the Besiegers had most Reason to be discouraged, yet renewed they the Assault. Some made their Approaches with their Targets on their Heads, others carried scaling Ladders on their Shoulders, and hasted to come to the Walls; which e're they could do, many of them miscarried in the Showers of Arrows that flew from the Town. Some laboured to break in Pikes the Iron Hinges of the Gates, and were either scalded by burning Pich, or knocked on the head with Stones; and others, endeavouring to pass the Trenches, were killed, or wounded by such as sallied out through the Posterns, to whom the Line drawn before the Walls, gave good Convenience, both for lying in Ambush, and safe Retreat. Though the Defendants excelled them in the Arts of War; yet did the Besiegers, who were men chosen out of many Companies for this Purpose, fret exceedingly, that they should be so long about their Work; and often coasted the Town, to see if any Force or Device would prevail. But at length they were convinced, that the Difficulties were such, as they were not able to overcome, and therefore they began to slacken their Siege, and wast the adjacent Countrey. Yet they thought they might, by want of Water, bring them to such Extremity as to force them to yield. And for that Purpose they first cut all the *Aqueducts* that served the City, which not having that Effect they imagined, by great Labour they drew the River away from the Walls, though still to little Purpose; for they within contented themselves with the Water they found in Wells, and lived very sparingly, as resolv'd to hold out. And so long they held, till *Agilo*, the *Magister Peditum*, was sent by *Julian* from *Constantinople* to acquaint them with the Death of *Constantius*. At first they would not believe, but rejected him with reproachful Words; but upon Promise of Safety, being alone permitted to approach the City; he so far satisfied them, that they opened their Gates, came out, and received him; and purging themselves, laid all the Blame upon *Nigrinus*, whom with a few others they delivered up; desiring that by the Punishment of them, might be expiated the Crime of High Treason. A few dayes after by *Mamertinus*, the *Præfatus Prætorio*, who sat as Judge, *Nigrinus*, as the Author of this War, was sentenced to be burnt alive; which was executed upon him for his Gallant Fidelity to his Prince, which they called Treason against him he couped an Usurper. After him *Romulus* and *Sabestius*, two *Curiales*, or *Decuriones*, of the Town, were for having been great Actors against *Julian's* Party, put also to Death; and all the rest were pardoned; for so *Ammianus* tells you, it pleased the mild and gentle Emperour to ordain in Equity, in their Behalf, whom Necessity, and not any Design, had thrust forward into the Danger. But it seems he would not trust *Nigrinus*, nor have any Respect to his Fidelity and Constancy, although gal-

Seet. 4. gallant Princes have been wont to admire and love those whom they found faithful to their Masters, to whom they were bound by the Ties, either of an Oath, or Conscience; and when once advanced into the Place of the deceased, have found themselves obliged, rather to despise those, who formerly neglected the setting Sun, and adored the Rising, even because now the Case was altered, and become their own. A. D. 361.

113. But these things happened some time after. We must see the Setting of *Constantius*, and the Mounting of *Julian*, who seemed but a *Meteor*, in that he arose before the other was down; and after he had alone appeared in another Colour, again suddenly vanished. While *Julian* still lay at *Nessus*, he was extremely perplexed with various Cares and Fears. He expected to hear, that the Garison in *Aquileia* had broken forth, and drawn the Provinces of the *Julian Alps* from their Obedience to him. He also stood much in fear of the *Eastern Armies*, being told, that the Forces dispersed through *Thrace*, to give him a Stop, were drawing down under Command of *Narceianus*, a *Comes*, towards the Streights of *Succi*. To obviate these Difficulties, he gathered together the Army of *Illyricum*, which was well-Disciplin'd, and heartened by Success; and to gain the Affections of the People, refused not to receive the Complaints of Private Persons, spending some time in Hearing their Causes; but especially he endeavoured to purchase the Favour of the Corporations, and that Unjustly, by Condemning many Persons to Publick Services there. Two *Senators* of good Note he much courted, viz. *Symmachus* and *Maximus*, who were lately returned from a Message they were sent on to *Constantius*, and passing by the better, he promoted the latter to be *Præfēt* of *Rome*, in the place of *Tertullus*, and that for the sake of *Rufinus Vulcatius*, whose Sister's Son he was: And he ordered his Affairs so well, in reference to Provisions, that the People, which was wont to be very Tumultuous, made little or no stir during his Government. Further to Secure the Fidelity of those who now pretended Fair to him, he designed *Consuls Mamertinus*, the *Præfētus Prætorio* of *Illyricum*, and *Nevita*, who had lately wonderfully pleas'd him, by Railing upon *Constantine*, as the first Prince that had Promoted *Barbarians*. While thus betwixt Hope and Fear he Ordered his Matters as well as he could at *Nessus*, *Constantius*, still lying at *Edeffa*, was often Disturbed by the Reports which his Scouts brought to him, and thereupon was very doubtful what to do, whether to Fight the *Persians*, as he could light on them, upon occasion, or with double Force Attacque *Bezabde*. And though his Inclinations were to move Westward, yet it troubled him to think of leaving *Mesopotamia* Exposed to the Violence of the Enemy. For the *Persian* King hover'd beyond *Tigris*, which, if he passed, and found none to Resist him, he might easily cross *Euphrates* also, and do further Mischief to the Adjacent Provinces. However, *Constantius*, purposing to preserve his Army as intire as he could, for a Civil War, was Resolved not to make Havock of his Men by thrusting them upon Destruction in Attacquiring the *Persian* Garisons, which he found by Experience to be strongly Fortified; but, lest he should be blamed for Negligence or Cowardise, he gave order to *Arbetio*, *Agilo*, and other Officers of Horse, to Fortifie, as well as they could, the Banks of *Tigris*, and, observing the King's Motions, to retire*, in case he should venture over. They received Intelligence by their Spies and some Fugitives, but such as was altogether Repugnant to it self, and contradictory: for the *Persians*, of all men, kept their Councils the most secret, which were communicated to none, but some of the most close and Trusty among their Nobility; and of Divulging any thing they were so cautious, that they Worshipped Silence as a Deity. For this, or other Reasons, the Officers ordered to the Borders were so Distrustful of themselves, that they often sent for the Emperour, Protesting that with all the Force they could make, if the King should come, they could not be able to make Head against him. Injuste plures muneribus publicis adnectebat.

Julian in great Fear of himself.

How he laboured to secure his Interest.

Constantius manageth his Matters in Mesopotamia as prudently as they would bear.

Receives the News of Julian's Practices in Italy, and other Western Countries.

114. Though of the *Persian* King nothing could certainly be known out of the East, yet from the West now came News certain enough, that *Julian* had over-run Italy and *Illyricum*; and having Secured the Streights of *Succi*, there staid for the meeting of greater Forces, wherewith he was resolved to Invade *Thrace*. Hereat *Constantius* was very Melancholick, and his Grief would only admit of Ease from this Consideration, that he had ever been Happy in suppressing Usurpers. He thought it the safest Course, by degrees to send away the Souldiers in the Publick Carriages, that they might be ready to make timely Resistance; for which as he was preparing, word was brought the next morning, that the *Persian* King, for certain, was returned Home; upon which good News, he took all away, but such as of course were left to the Defence of *Mesopotamia*, and departed to *Hierapolis*. Here, consider-

Qui nuper ut primum augenda Barbarice Filitatis Austorem immoderate notaverat Constantium.

Id Concilium Constantii laudat Libanius in Basilicani assensu Constantio; sed in orat. Funerari Juliano, valde illud idem reprehendit. ut Notat Valsinus in Locum.

lect. 4. dering the Danger he was to undergo, he caused all his Army to draw up in the Camp; and to animate them, from a lofty Tribunal, with a serene and pleasant Countenance, made a Speech to them. He told them, "That being ever solicitous to carry himself, both in Word and Deed as comported with Honesty, and as a prudent Pilot, having Steered, according as he found the Wind and Weather to require; he was now constrain'd to confess some Errors before them, or rather accuse himself, as guilty of too much Humanity, which he thought would have conduced to the publick Good. He advanced Gallus, his Cousin-German to the Dignity of Caesar, and sent him to the Defence of the East, at such time as Magnentius had made Disturbance in the Western Parts, whom their Valour at length suppressed; but he (Gallus) declining from all the Tracts of Justice and Moderation, committed many Enormities no way fit to be related, and had received such Punishment as he had deserved. And he with'd, that his Misfortune would therewith have satisfied it self; but now had followed a Mischief greater than all that was past. For Julian, whom he had appointed to Watch for the Defence of Gall, against the Invasions of the Germans, while he himself was imbroil'd in the Motions of the Nations bordering upon Illyricum, madly puffed up by the Success of some slight Engagements with an half-naked Enemy, having cajoled an inconsiderable Number of men, fierce, and desperate for any pernicious Design; had set up for himself, and entred into Rebellion against the Commonwealth, contrary to Justice, which had ever been both the Parent and Nurse of the Roman Empire. It must be therefore their Part, to crush so monstrous a Design in the Beginning, before it should grow to any Maturity. Neither was it to be doubted, but that God himself would be assisting to their Endeavours, by whose Sentence ungrateful Persons are ever condemned; so that their Swords should be turned upon themselves to their Destruction; who without any Provocation, but on the contrary many wayes obliged, had entred into a Course pernicious to such as were Innocent; and he concluded, that he was of the Opinion, nay very confident, that if once they came to engage, they would be so overpower'd with Fear; that they would neither be able to look them in the Face, nor endure the Noise of their Shouting to Battel.

He accuseth him in a speech to his Army.

A. D.

361.

Sends some Forces against him.

115. His Harangue had that Operation upon the Souldiers, which he desired; for, consenting fully to what he required; of Anger, they made the usual Sign with their Lances, and desired to be led away against the Rebel. Herewith exceedingly encouraged, he sent away Arbetio, whom he had found very lucky in the Suppression of civil Broils, with the *Lancearii*, the *Martiarii*, and the rest of the light-Armed, and Gaomarius with the *Latii* toward the Streights of *Succi*, knowing him to bear ill Will to Julian, for being disgraced by him in Gall. But now did his Fortune, in the Opinion of our Historian, clearly presage his End to be near. For he was often frighted in his Sleep, and dreamt, that his Father put a beautiful Child into his Lap, which dashed, and cast to the Ground, the Globe or Sphear that he bore in his Right Hand. Now *Ammianus* tells us, that this did signifie a Change of Times, though his Flatterers made him believe other things; but if this beautiful Child was that Julian, who, if any, was set in his Lap, when he made him Caesar (upon his Father's Account, being Constantine's Brother's Son) this Babe of Grace was but little grateful to his Uncles Memory. But Constantius, he saith, confessed to his most close Attendants, that now he ceased to see any Apparition, as one forsaken; but sometimes he beheld it in a more ugly Shape; and this was thought to be the *Genius* appointed to his Safe-keeping, which now had quitted him, as one about to leave the World: For as much as Divines, He addes, do report, that all men, as soon as born, have some Deities allotted them, to govern their Actions; by the Stability of Fate alwayes preserved; but seen by very few, as these alone, whom their manifold Vertues render famous; so that by this Doctrine Constantius, who was wont formerly it seems to see his *Genius*, was a man Famous for his Vertues. However, he was not so far discouraged, but being come with Speed to Antioch, he hastened thence with all Alacrity, as he was ever wont, when he went about to chastise Rebellions; at which though many murmured, yet durst none speak openly against it. Marching thence, when Autumn now declined, as he came to a Place called *Hippocephalus*, three Miles distant from that City; he was presented with the Spectacle of a dead man, having the Head cut from the Shoulders, lying on his Right hand toward the West, wherewith being struck, as apprehending it ominous, he went forward, and came to *Tarsus*. Here he was seized with a gentle Fever; but believing that Motion and Exercise might do him Good, he resolved to proceed in his Expedition, and through difficult wayes reached *Mopnestia*,

He comes to Antioch.

Quos multipli-
ces auxere Vir-
tutes.

ituate

Señ. 4. Situate at the Foot of the Mountain *Taurus*, and the last Station of *Cilicia* on that Road. Hence he had also determined to move, on the following day; but was detained by the Force of his Disease; which by Degrees, was grown to that Height, that he burnt like Fire, and could for Heat scarcely be touched. All means used for his Recovery proving unsuccessful, he bewailed his End; and having, as the Report went, named *Julian* his Successor, at last, after long struggling with Death, he departed this Life. Such was the End of *Constantius*, at *Mopsuestia*, or *Mopsuerena* on the fifth of *October*, as writes *Ammianus*, or rather on the third of the *Nones* of *November*, as some date it, in the thirty eighth year of his Reign, and the forty fourth of his Age, in the Consulship of *Taurus* and *Florentius* A. D. CCCLXI.

Proceeding,
dies at *Mopsu-*
estia in *Cilicia*.

A. D.

361.

Laws made by
him in his last
year.

His great kind-
ness to *Themi-*
stius the Phi-
losopher.

116. Before we had brought *Constantius* to his End, we should have taken a view of the Laws he made in the last year of his Reign; but that it would have broken the Series of those Actions which he prosecuted in order to his marching Westward, and therefore we referred it hither, where something more ought to be spoken of his Character. And in order to this, we may first call to mind what we have already observed; That he was very Studious to Preserve and Increase the Dignity and Privileges of *Senators*. To this end, principally, he Directed his Fifth Oration, or Constitution, to the *Senate* of *Constantinople*, distinguished at present into Nine several Laws, according to the several parts of which it consists; bearing Date on that third day of *May* which preceded his Death, from *Gephyra*, a City of *Syria*, distant two and twenty Miles from *Antioch*. The first Direction it gives, is, for the better Election of *Prætors*, concerning which he had formerly made several Laws, as we have already seen. But now further He Ordains, That at the making of the *Senatusconsultum* (for the Choice, as we shewed before, he left wholly to the *Senate*, which must consist at least of thirty Persons) should be present Ten of the Principal *Senators*, or those they called *Summates*, viz. such as had been ordinary *Consuls*, had born the Dignity of *Præfects*, *Proconsuls*, and *Prætors*; and, what is more to be taken notice of, *Themistius* the Philosopher, he will have in particular to be there. This Person Flourished at this time, with great Reputation for Learning, which appeared herein, as well as otherwise, that with excellent Commentaries he Illustrated the Works of *Aristotle*. *Constantius*, to Encourage Learning, and reward so Deserving a Man, for whom he had Extraordinary Kindness, had, almost six years before, by a peculiar Oration (so these Imperial Constitutions Directed to the *Senate*, are termed) Promoted him to the Dignity of *Senator*; and now, to do him still Greater Honour, will not have any chosen *Prætors* without his Presence and Assistance at the Election, amongst these *Summates* or *Proceres*, the Persons of the Highest Quality; and that further, with this Elogium of him, as a Learned Man, That his Learning Ennobled his Dignity of *Senator*. But further, as to the making of the *Senatusconsultum*, he will have them give their Voices in order, and not by the way of Exclamation, or Acclamation, to what was said by the first that spake; when they all cried together *Yea*, or *Nay*, or went out to shew their Opinions; as was usual then, and now continues to be the Custom in cases of smaller consequence in Publick Assemblies of that nature. And if any *Prætor* died in his Office before he had Celebrated the usual Games, he Enacted, That after the same, one be chosen to succeed him, as should in course have been *Prætor* the following year.

L. 12. de *Præ-*
toribus & Qua-
storibus, Cod.
Th.

Themistius quo-
que Philosophus,
cujus auge-
Scientia Digni-
tatem.

Hanc subroga-
tionem Imp.
Substitutionem
vocat; quod
vetus & pro-
prium hac in re
verbum fuit.
Vide Comment.

He provides
for the Pub-
lick Buildings
of *Constantino-*
ple.

117. The second Head, or Segment, of *Constantine* his Oration, hath relation to the Publick Works of the City of *Constantinople*, for which, by occasion of the *Prætorship* he Amply provides. For, in the first place, whereas all the five *Prætors*, which in his time we have said to have been in this City, were obliged to be at the Expence of Publick Games, or Pastimes; he very laudably changes the Custom, Ordaining, That, for the time to come, only Three of them be at this kind of Expence, and that the other two, in room thereof, contribute a Sum of Money to the Publick Fabricks, or Works of the City; and to each he limits the Expence, requiring, that he who bore the Title of *Prætor Constantinianus*, should pay one thousand Pounds of Silver, and the other, called *Flavialis*, five hundred. But, in case any of them should be constrain'd to be Absent, by reason of Sickness, Age, or the like; then he Ordains, That they send their *Procurator* to the *Censuales*, or Officers of the *Præfect* of the City, with the Sum of Money which they were obliged to Expend; and which *Censuales* were to see the Works carried on and Finished; yet so as the Names of the *Prætors* were to be set upon them: But in case any wilfully and contumaciously Absented himself, then, as a Mulct, he Ordains, He shall pay half as much more as his share came to; which Mulct shall be

L. 13. de
Prætoribus, &c.

Ludorum Edi-
tio.

Le-

Secd. 4. Levied by the Governours of the Provinces, after Warning received from the " *A. D.*
Præfēt, into whose Office they were to pay it, whence it should be laid out in " *261.*
 some Publick Work, whereon the Name of the Contumacious *Prætor* was not to
 be set: and in case Money could not be had, the Governours were to proceed by "
 way of Distress, which also was to be brought into the Office of the *Præfēt*. "
 Now the Ordinary Judges or Governours of Provinces are commanded to take this
 Pains, for that by other Laws it was incumbent upon them, to find out such *Prætors*
 as sculked or concealed themselves, and to force them into the City, there to Dis-
 charge their Duties. And if those Judges failed therein, they were also finable for
 their Omission, and the Fine was, in like manner, to be Employed upon Publick
 Works; being Levied and Expended by the Officers of the Citie's *Præfēt*, the Digi-
 nity of whom, *Constantius* hereby Advances, as he himself Declares his Intention to
 be, who but two years before had given Beginning to the *Præfēt* himself. And
 very much indeed his Authority, and consequently his Dignity, was hereby Ad-
 vanced; he having Power to send his Officers through all the Provinces of the *East-*
ern Empire, to Levy this Mult^o inflicted upon the Governours; Besides that great
 Privilege he granted to the *Senate*, and consequently to him, who was Head of it,
 that Appeals should lye to them out of *Bithynia*, *Paphlagonia*, *Lydia*, the *Hellepont*;
 the *Islands*, *Phrygia Salutaris*, and other Parts, by another Law. From the great
 Care of Publick Works he here manifests, it's probably concluded that at this time
 there were some Notable Buildings he had in hand; as possibly, the *Baths*, *Aqueducts*,
 and *Forum Regium*, which some mention to have been raised by him. The Desire
 of carrying on these Works in this his City, as he calls it, was so great, that whereas
 formerly he had absolutely refused to give leave to such as had been *Vicars*, *Nostre urbis.*
 to Excuse themselves from the *Prætorship*; now he is content they be Excused,
 provided they bring to the Bank, or Chamber, of *Constantinople*, so much Mo-
 ney, as the two *Prætors*, lately mentioned, were obliged to pay toward the "
 Works.

His Indul-
 gence to *Se-*
nators.

118. But further, as to the Privileges of his *Senators*, for so he terms them, he
 Ordains; That they be freed from the Burthen of the *Metatus*, so as without "
 their consent none should Lodge or Quarter in their Houses; a Privilege which "
 afterward would not be permitted them, and therefore this Law, or branch of this
 Oration, is not put into *Justinian's Code*. And whereas they were wont to be Sued
 by the Treasury, when Husbandmen fled and absented themselves, he Commands,
 That if they received no Profit from the Lands of such Husbandmen, they should "
 not be obliged to pay for such Fugitives. Now this *Gothofred* Expounds to be
 meant of some small Lands which their *Coloni* or Husbandmen had of their own,
 besides those of their Lord's, which they Tilled: but I see no reason why we may
 not understand it of those who plaid least in light, and betook themselves to the
 shelter of Great men, when a Tax came out, and therefore their next Neighbours
 were bound to make up the Sum Imposed, as formerly hath been shewed, from
 which Burthen he will have his *Senators* Excused. It was a Custom, that when
 there was any danger of Famine, as in this City of *Constantinople*, or great want of
 Corn, or Provisions for War, or upon any other urgent occasion, the Provincials
 were bound, at a Market-price, to find, and Sequester Corn for Publick Uses, from
 which very few were Excused; but *Constantius* bestows this Immunity upon the "
Procurators, or *Stewards* of *Senators* throughout the Provinces. As to the Pay-
 ment called *Lustralis Collatio*, of which we have already spoken, to which Merchants,
 or such as Trafficked with Wares, or with Money, were principally and especially
 obnoxious; he declares, by another part of this Oration, That the Rusticks, or "
 Husbandmen of *Senators*, who only sell the Growths of the Lands they till, are "
 not to be Comprized amongst such men, or taken for such; there being indeed "
 two Contracts required to make a Merchant or Trafficker; the one, of buying first
 a Commodity, and the next, of selling it again for Profit or Advantage. Further,
 at this time, it being lawful for the Governours of Provinces to raise within their
 Jurisdictions certain publick Works, as of *Baths* or the like, when and where they
 thought fit, without consulting the Prince or the *Præfētus Prætorio* (which yet af-
 terwards was forbidden) they were wont to cels the Estates of *Senators* amongst
 others. But this *Constantius* in another Part of his Oration forbids; and for that "
 there were throughout the Provinces, certain *Senators* impowered to look to, "
 and preserve the Privileges of those of that Order within their Districts, (in like "
 manner as the common People had also their *Defensores*, the Church it's *Prote-*
ctors, and the Poor their *Overseers*) he impowers them to make, constant Oppo-
 sition against the incroachment on their Immunities; which if they, being off so "
 great

L. 1. de *Præ-*
toribus, *Cod. Th.*
lib. 7. tit. 6.

L. 7. de *Annona*
& Tributis,
Cod. Th.
Abst. à Cod.
Justin.

Publica Compa-
ratio vocatur
& Synoneton.
L. 1. de publi-
ca Compara-
tionem, Cod. Th. lib. 11.
tit. 15.
Abst. à Cod.
Justin.
L. 3. de Lu-
stralis Collatio-
ne, Cod. Th.

L. 7. de *operi-*
bus Publicis,
Cod. Th.
L. 7. Cod. Ju-
stin. de Dignit.
hinc decurtata
est.

Señt. 4. great Quality, and Interest, could not obviate without having Recourse to the " A. D. 361.
 Emperor; no wonder that the *Curiales* (or *Senators* of Corporations) were much
 vexed also at this time, upon the same Account.

In what Cases
 he will not ex-
 cuse them.

119. These are the Privileges which he Ordains, and Confirms to his *Senators*; but lest they should seem to be set free from all Services and Obligations, besides what, at the beginning, is said concerning their Obnoxiousness to the *Prætorship*, and Expense of Publick Pastimes; he Instances in other two things, wherein they must plead no Immunity or Excuse. By reason of his Indulgence to Persons of this Rank, or to shun the Charge and Trouble in Corporations, many of the *Curiales* had obtained an Admission into the *Senate*, as others betaken themselves to the Army, or to Holy Orders, as a Refuge; but now, though formerly he was content, that being admitted to this Dignity, they should be freed from their Obligations to Bodies Corporate, He Commands, That such be struck out of the List of the *Senate*, and be returned back to their own Towns. But this is to be understood of those only who had not born the Office of *Prætor*, or been at the Expense of the Publick Pastimes; for if they had undergone this Charge, he will not have them forced back to their Towns; yet with this Proviso, that if they had any Money in their hands belonging to the Publick Treasury, or that of their City, they should be bound to make Restitution; for, out of these *Decuriones* were chosen the *Exactores*, *Susceptores*, and *Curatores*, of whom heretofore. The next Duty from which he will not permit them to be Excused, is, that of the *Protostasia*, than which nothing is more obscure in the whole Code: but from all laid together, it appears (though the word in general signifies Principality, or Pre-eminence) to have been the chief Inspection or Care of Contributing and Collecting Tributes in each *Municipium* and Territory throughout the *East*; and this to have been Incumbent upon Persons, according to the Quantity and Value of their Lands. But this he will have them tied to, so far as their own Grounds make them lyable only, and not by way of *Epibole*, or Contribution for the barren Lands of others; although, to speak indifferently, the *Senators* that lived in the Countrey were too guilty of getting all the best Lands into their own possession.

L. 48. de Decurionibus
 Cod. Th. Abt.
 d Cod. Justin.

L. 1. de Protostasia Cod.
 Th. lib. 11. Tit.
 22. Vide Comment.

120. But thus we see how Indulgent *Constantius* was to *Senators*; and this is further to be said of him, that he cherished the Nobility and Senate as much as his Successor did the Corporations. For evidence of this, there is Extant a Law of his, though not in the Code of *Theodosius*, (out of which several have been lost) yet in that of *Justinian*; for that his it was, though it be by error Ascribed to his Father, appears from the Direction of it to *Orfitus*, who was *Præfectus Prætorio* in his time. This forbids any mean Trafficquers, as the *Monetarii*, or any of abject and vile Office or Employment, as the *Stationaries*; or such as lived by any filthy course of Life, to attempt, or aim at any Dignity: or if they did, it Commands they be repulsed, and returned back to their former Trade, or meanness of living. For his other Qualities, those who do not Flatter him, confess, that he ever preserved the grandeur of Majesty and Authority; that with a great and lofty Mind he contemned Popularity; was careful and sparing in conferring Honours, and especially the greatest; which, as a Maxim, Princes that designed to uphold the Reputation of Nobility, and prevent Popular Tyranny, have ever observed, as much as they could. Neither did he suffer (or but rarely) either those in Civil or Military Commands to grow greater, through any new Accession of Power or Honour, which would still give others that came after, encouragement to expect the like; so that, under him, no Commander was Advanced to the Degree of *Clarissimus*, having been only of the Rank called *Perfectissimus*. In his time, no Governour of a Province went forth to meet a *Magister Equitum*; neither did he suffer a *Magister* to meddle with any Civil Business; but all, both Military and Civil Officers, according to the ancient Custom, bore Reverence to the *Præfecti Prætorio*, as those that were Advanced to the highest pitch of Honour. In preserving Military Discipline, he was rather too exact; sometimes too scrupulously examining the Merits of his Souldiers. The *Palatine* Dignities, or his Court-Employments, he bestowed, as it were, by a Plumb-line and Level; and during his Reign, no Upstart or Unknown Person came to bear any Sway; but it was certainly known, who, of course, having passed ten years of Tryal in an Inferiour Station, would be promoted to be *Magister Officiorum*, *Largitionum*, or the like. As it was rarely known that any who had been bred a Souldier was translated into a Civil Employment, so none were preferred to Command in the Armies, but such as had undergone the Toil of War, and learn'd Experience. Preferment did not in his dayes court all sorts of men indifferently,

L. 6. de Dignitatibus. Cod.
 Justin. lib. 1.
 Tit. 1.

Otherwise indulgent to the Nobility.

His Virtues.

He prefer'd none but fit Persons.

ut honorum on-
 nium apicem

Sect. 4. differently, or rather those who were most unfit; Persons did not rise to those Places, as inspired, without any Breeding or Study to fit them for the Discharge; as in later Enthusiastick Ages, wherein, not only in Spiritual Ministeries, but even in Civil Employments, little or no Study and Preparation hath been thought requisite to any Place. The Light within us, or Natural Wild-fire, whether Canting or Drolling, was not esteemed for its Cracks. Study and Industry were not accounted Formal Foppery, nor what distinguishes us from Beasts, turn'd into Ridicule: Persons might then, as of old, perhaps think themselves born Poets; but not Orators (either Religious or Secular) not Lawyers nor Judges in either kind; Commanders Military, or the like.

121. But, *Ammianus* further tells us, that he was a Diligent Affecter of Learning, but by reason of his blunt Wit, no good or tolerable Orator; and yet, if that be the best Oratory that accomplisheth its End, he was not unhappy in his Military Eloquence, and could as effectually cajole the Souldiers, as his Learned Cousin *Julian*; for he still perswaded them to what he pleased, and this by a gentle and pleasing way he had, which this Writer upon occasion asserts, though not where he gives us his Character. Having no success in Rhetorick, he further writes, he betook himself to Poetry, wherein he did nothing to any purpose. As to his manner of Living, he was spare and sober both in Eating and Drinking, whereby, (Temperance being, as a Prince that Reigned in *England* an hundred years ago, and since, was wont to say from good Experience, the best part of Physick) he retained so perfect Health, that he seldom contracted any Disease; but when he did, he was sick to Death. He was content with little sleep, when Business and Time required it; and so Eminent for Chastity, during his long Reign, that he could not be so much as suspected toward any Male he had about him, which Crime, Envy, though without any real ground, is wont, saith our Historian, to fix upon Persons placed in greatest Power. He was an Excellent Horseman; and in casting a Dart very Expert, but especially skilled in Archery; and also most knowing in the Arts of Training and Commanding Foot. As for things of more slight consequence, as that in Publick he was never seen, to blow his Nose, to Spit, to turn his Head aside, or in all his Life to have tasted any sort of Apples; our Author tells us, he omits to speak further of them, as being often before mentioned by him, and so having but summarily, as he saith himself, mentioned his Virtues, or such of them as he could know, he comes to explain, or lay open his Vices. In other matters, he was to be compared to the middle sort of Princes; but if there was but any Appearance of Designed Usurpation, true or false, he knew no end of making Inquisitions, and neither having respect to Right nor Wrong therein, exceeded *Caligula*, *Domitian*, and *Commodus* in Cruelty, whom imitating in this Excess, at the beginning of his Reign, he utterly cut off all that were near him in Blood or Kindred. In such cases his Suspicions were strained to the utmost, and his Inquisitions were so Severe, that he appointed most cruel Persons to Examine and Judge the Accused, and was desirous, in Punishing those that they Condemned, to extend their Torment even farther than Nature her self could hold out, herein far more Rigid than *Gallienus*. *Ammianus* instanceth in this Emperour's milder Punishment of such as he found really guilty of Treason; takes occasion to shew how unlike *Constantius* was to *Marcus*, who, when *Cassius* had Usurped in *Syria*, burnt a Packet of his Letters, which had been intercepted. And after this, he cites passages out of *Cicero* and *Heraclitus* the Philosopher, to shew the baseness of Cruelty; to which we must needs Assent, but not Imitate, nor transcribe him in such like Sallies.

122. But to the purpose; he adds, that thus Cruel he was, under a specious Pretence to Justice and Clemency: that, as in Foreign Wars, he was broken and dejected, so in Civil Content, wherein he had usually Success, he was puffed up, and, as he words it, sprinkled with horrid filth from out of the Intestine Ulcers of the Commonwealth; so that through a depraved purpose, rather than what was Right and Usual, he Erected in *Gall* and *Pannonia* Triumphal Arches, at a great Expence out of the Calamities of the Provinces, with the Narration of his Acts thereto affixed. To his Wives, his whining Eunuchs, and certain of his Courtiers, who Applauded all he said, and observed how his Inclinations stood, that they might accommodate themselves to his Humour, he was too too much addicted. And the Badness of the Times was rendred worse by the insatiable Rapacity of his Officers, who thereby procured him much more *Odium* than Money; and this yet seemed more intolerable, that He himself would never hear a Cause, nor take any care for the Ease of the Provinces, at such time as they were burthened by multiplied Tributes and Impositions. He was, to conclude this Character, of his mind, (for what our Author

*Perque spatia
ita longissima
impendio ca-
stus.*

*Equitandi &
jaculandi, arti-
umque armatu-
re pedestris per-
quam scientissi-
mus.*

*De numeratis
carptim bonis
quae scire potui-
mus, nunc ad
expiananda
eius vitia ve-
niamus.*

*Et intestines
ulceribus Reip-
sanie perfusus
horrenda.*

Sect. 4. thor speaks of him in reference to Christian Religion, will be more proper for another place) easily inclined to take away what he had formerly bestowed. As for that of his Body ; His Complexion was brown, his Looks lofty, and his Sight quick; the Hair of his Head was soft, his Face, which he constantly shaved, very comely ; from his Neck to his Groin he was tall, but his Legs were very short and bowed, which made him very excellent in running and Leaping. Such is the Character given him by *Ammianus*, to which it will be requisite that we adde what others, as to this point, have written of him, and one that lived in his Time, though of a Pagan perswasion ; for, to avoid partiality from Affection, we shall not have respect to what Christians have written, but rather consider what they say of him upon another occasion.

A. D.

361.

The Character
given him by
Eutropius, and
other Pagan
Writers.

123. *Eutropius*, who lived also in his dayes, having told us, that he died as he was going against *Julian*, betwixt *Cilicia* and *Cappadocia*, in the forty fifth year of his Age ; adds, that he deserved to be reckoned amongst the *Divi*, or Deified Emperours. Then, that he was a man of egregious Tranquillity, of a pleasing Disposition, that he gave too much credit to his Friends and Familiars, and was something too Exorious ; yet, in the first years of his Reign, he demeaned himself with great Modesty, was an Inricher of his Familiars, and suffered not those which he had found Industrious to go unrewarded. But he was more than ordinary inclined to Severity, upon suspicion of Treason, otherwise mild ; and one whose Fortune was to be more esteemed in Civil than in Foreign Wars. With *Eutropius* agree others of the same way, commending this Emperour, as to the Main, and laying the great fault upon his Eunuchs and Ministers. But, although all men, and especially the greatest, be obnoxious to Flattery, and those that see with the Eyes, and hear with the Ears of others, are too subject to false Representations ; yet *Constantius* cannot hereby be Excused, nothing so much declaring the Wisdom and Disposition of a Prince, as the choice of his Ministers. For, they all therein suit their own Inclinations ; not but that the most Prudent may be mistaken in Men as well as Things ; but we speak of the constant Practice, as that of this Emperour, who was generally thus imposed on all his Life. At parting yet we cannot but observe something in his behalf, in reference to the odious comparisons *Ammianus* makes of him for his Cruelty. He tells us, that he rooted out utterly his Kindred at the beginning, which all must needs acknowledge an Expression Hyperbolical. For to be sure, *Gallus* and *Julian* he left alive, and they and He were as near a Kin as Brothers Sons are wont to be. Then *Eutropius* tells us, that *Dalmatius Caesar*, another Cousin, was indeed killed, but by a *Military Faction*, and so as *Constantius* rather suffered, than commanded it.

Verum Dalmatius Caesar prosperam indolem, neque Patruo ab similia, haud multo post oppressus est a factione Militari, & Constantio patruo suo sinente potius quam iubente.

Sect. V.

From the Death of Constantius, to that of Julian.

The Space of a Year and some Eight Months.

1. **T**HE Body of *Constantius*, being duely prepar'd and Coffin'd, was committed to the care of *Jovian*, his *Protector Domesticus*, to be convey'd with Royal Pomp to *Constantinople*, there to be Buried with his Relations. While in the way, *Jovian* was sitting in the Chariot that carried the Corps, there were offered to him, as was wont to be to Emperours in their Journeys, the Essayes of Corn, or Military Provisions; and the Publick Beasts of Carriage and Burthen belonging to the *Cursus Publicus*, were produced so often, that, together with Officious Meetings upon the Road, and other things of like nature, they portended Empire to *Jovian*, but such as was empty, and rather a shadow of Sovereignty, than otherwise, as to one who was the Chief Actor in a Funeral Solemnity. But to leave him with his Charge, and return to the Place whence he set forward with the Body. After the Chief Officers, Military and Civil, had, by their Tears and Lamentations, testified their due Respect to the dead Emperour, they began to lay their Heads together, and consider what was to be done in reference to a Living Prince; for such an one now there must be made, or owned. After some small Attempts in another way, at the motion of *Eusebius*, as was reported, whose Conscience now flew in his Face, *Julian*, who seemed near at hand, and well provided, was resolved on for the Man; and *Theolaiphus* and *Aligildus*, both Counts, were sent unto him, to inform him of the Death of his Kinsman, and to desire that he would without delay come into the *East*, which was very ready to receive his Commands. But the Report went, that *Constantius* made a Will, and therein, as was formerly said, named *Julian* his Heir; bequeathing Legacies and Estates in trust to other his Relations; for as for Children he left none, except one in the Belly of his Wife, which, proving a Daughter, and after him named *Constantia*, was afterward married unto *Gratian*. In the mean time, *Julian*, being variously employed in *Illyricum*, yet principally intended his Divinations, by a continual prying into the Entrails of Beasts, and viewing of Birds; yet were the Answers so Ambiguous and Obscure, that he remained still in Suspence, and altogether Uncertain about future Events. At length one *Aprunculus*, an Orator in *Gall*, afterward promoted to the Government of the Province of *Narbon*, a man mighty skilful in the *Aruspicina*, made to him a full discovery from the Liver of a Beast, as he said, which was covered with a double Call. Yet was he still afraid that these things were but feigned, which were thought to be acceptable to him; and this made him Melancholick, Good Man, till he himself perceived by a good Token, that *Constantius* his Death was portended. At the very same instant, *Ammianus* tells you, that the Emperour died in *Cilicia*, a Souldier, who lifted him up upon his Horse, he being set, fell down to the ground; whereupon he suddenly cried out, in the hearing of all the Company, that He, who had raised him up on High, was fallen himself. He knew that this boded well towards him, yet he was resolved still to continue in *Dacia*, as still apprehending several Dangers. For he thought it not safe to trust to Conjectures, which perhaps might fall out quite contrary to what they suggested.

Constantius
being dead,
his Officers
send and in-
vite *Julian* to
take posselli-
on.

Julian hears
of his Death.

2. These Doubts were at last all discussed by the Arrival of *Theolaiphus* and *Aligildus*, who brought him News both that *Constantius* was dead, and that he had declared him his Successor, as our Pagan Historians write; though Christians have believed, that this was feigned by them, to take off the *Odium* of *Julian's* Usurpation. For, it's reported of *Constantius*, that when he lay on his Death-bed, amongst other Reflections upon his Life, he repented that he had Promoted *Julian* to be *Cesar*; but if he so Ordained him his Heir, the more Gratitude he owed to his Memory, and so vertuous and gallant a man as he, doubtless, could not but pay so just a Debt. However, now delivered from all Fears and Incumbrances, he was exceedingly Elevated with his good Fortune, and gave credit to Divinations; but, knowing how much Expedition had contributed to the Advancement of his Affairs, he gave Orders to march away into *Thrace*; and passing down the Mountains of

Sect. 5. of *Succi* came to *Philippopolis*, which by the Ancients was called *Eumolpia*, his Army following very chearfully, now they found that what they were going to take by Force, and that with the hazard of all their Lives, was devolved upon him by ordinary Right. When the Report of his Approach was brought to *Constantinople*, all sorts came out to receive him as one dropp'd from Heaven; and there he entred with great Applause, and the Admiration of all that beheld him, on the eleventh of December. For they considered how a young man, as he was, of a little Body indeed, but renowned for very great Actions, after bloody Tragedies made by him, both of Kings and Nations, was suddenly passed from City to City, easily conquered all Opposition where he came, and in Conclusion arrived at the Possession of the Empire, as by Divine Appointment without any Expence of Blood, or Treasure, to the Commonwealth. But though he came so easily to the Supream Power, he thought fit not to forgive such as had been his Enemies formerly, though now they readily submitted themselves, and closed with his Interest. For within a short time, as a Foundation of what was to follow, and to have a Judge whom he could trust, he made *Sallustius* his *Præfectus Prætorio*, and with him joyned *Mamertinus*, *Arbetio*, *Agilo*, *Nevita* and *Jovinus*, whom he had lately promoted to be *Magister Equitum* through *Illyricum*. Those Commissioners passed over to *Chalcedon*, where being protected and assisted by the *Tribunes* and others the Principal of the *Joviani* and *Herculiani*, they made more severe Inquisition after Criminals than Justice would bear them out in, though their Emperour did; some few Cases only excepted, wherein they could scarcely exceed the Merits of such, as they had Reason to condemn.

Goes to Constantinople.

Severely animadverts upon his late Enemies.

Flamma instar cuncta facilius occupasse.

Causas vehementius æquo bonoque spectaverunt.

3. They began with *Palladius*, whom they banished hither into *Brittain*, merely because he was suspected to have plotted something against *Gallus*, while under him he executed the Place of *Magister Officiorum*. Next after him they punished *Taurus*, who had born the Office of *Præfectus Prætorio*, in the like sort, though his Crime, in the Opinion of indifferent Judges was very slight, as having, when he apprehended a Storm approaching, betaken himself to the Court, and Protection of the Emperour his Master: And the Record made at his Tryal, was not read without great Horror, it beginning in this manner: *In the Consulship of Taurus and Florentius, Taurus being brought to the Bar.* In like manner was *Pentadius* indangered, it being objected that he took in Short-Hand the Answers of *Gallus* to such Interrogatives as were put to him a little before his Death; but he made so clear a Defence, that he escap'd unpunished. By the Force of the like Injustice was *Florentius* the Son of *Nigrinianus*, and then *Magister Officiorum*, confined to *Boas*, an Island of *Dalmatia*; as for the other *Florentius* who had been *Præfectus Prætorio*, and at present was dignified by the Title of *Consul*; he retired with his Wife, and, though condemned to Death in his Absence, lay concealed all the time that *Julian* lived. But *Evagrius* the *Comes Rei Privatae*, and *Saturninus*, who had had Charge of the Palace, together with *Cyrinus*, lately a *Notary*, could not escape being driven into Exile. And yet the Cases of these Persons seemed very Just and Reasonable, in Comparison of what *Ursulus* the *Comes Largitionum* suffered, whose Death *Ammianus* tells us that Justice her self seemed with Tears to have bewailed, and taxed *Julian* as ingrateful, however *Libanius* hath minced the Matter. For, this Person when he was made *Cæsar*, and sent into the West, perceiving there was a Design to straighten him of Money, that he might have nothing to give to the Souldiers, and thereupon they might be ungovernable; wrote Letters to the Treasurer of *Gall*, to furnish him, as he should have Occasion. After he was put to Death, when *Julian* perceived he was thereupon revil'd and cursed as a most ingrateful Wretch; he thought to salve the Sore by a Lye, and excuse the Crime which could not be expiated; affirming that the man was killed without his Knowledge, and pretended that the Souldiers made him away in a Rage, for having spoken those Words at *Amida* so long before; which we related upon Occasion of *Constantius* his coming before that City. Therefore in the Opinion of *Ammianus* he was fearful and unadvised, when he made *Arbetio* a man of an uncertain humour, and very proud, to be Judge of these Matters, (for the Officers of the *Legions* and the rest that were joyned with him were but only for Show) to him whom he knew first of all to have been set against his Life and Safety. Though those Proceedings were deservedly blamed, even by his Followers, yet other Examples of Severity he shewed, wherein he did not at all deviate from the Paths of Justice. *Apodemius* the *Agens in Rebus*, who had been so busie in the Death of *Gallus* and *Sylvanus*, as also *Paul* Sirnam'd *Catena* the *Notary*, not to be named without Groans for those that were murdered through his violent Prosecution, were burnt alive. *Ensebins* the *Præpositus Cubiculi*

Several unjustly put to Death;

Vide Valesii Annot. in Ammian. lib. 22. p. 206.

Quum maledictis execrationibus multorum se Julianus sentiret expositum, impurgabile Crimen excusari posse Existimans &c.

Some justly.

Scct. 5. *culi to Constantius*, that Execrable and intolerable Eunuch, who from a contemptible Original, arrived at so great Impudence as even to command the Emperour, rather than to receive Orders from him, was also put to Death. A. D. 361.

He too severely handles the Palatines, or Courtiers, though generally bad men.

4. From such animadversion upon these men, *Julian* fell on all the *Palatines* or Courtiers; though not like a Philosopher or one that professed to find out the Truth. He had deserved Commendation, had he retained such as were honest amongst them; though indeed of these there were but very few. For it must not be denied, but that most of them were very vicious, and did much hurt to others, chiefly by their ill Examples. Some by the Spoiles of Temples, our Writer informs us, and the rest by some other Occasions of gratifying their rapacious Minds, from the greatest Poverty raised themselves to vast Estates, and knew no Mean, neither in giving, taking, nor spending; being so habituated to invade the Rights of other men, that all Shame laid aside they stuck neither at Perjury nor any other Crime. Hence came up Feasts and Entertainments as luxurious as those used at Triumphs; Silk also began to be ordinarily worn, which hitherto was of vast Price and Scarcity; the Art of Weaving increased: and especially that of the Kitchen; and of splendid Furniture. Neither was the Discipline of the Camp less corrupted than that of the Court, the Souldier now only exercising his Voice in Songs; not contenting himself, as formerly, with a Stone in his Tent whercon to rest himself, but carrying about his Feather Beds, and drinking out of Cups, whereof each was heavier than the Sword he wore: he shamed now to drink out of an earthen Pot, and by his good Will, no House would serve him but one of Marble, whereas a *Spartan* Souldier is said to have been punished for being seen but within doors at the time of an Expedition. But so surly and rapacious the Military man was in those Days, toward his Fellow Subjects, and on the contrary so cowardly towards an Enemy, that being arrived at Wealth through ambitious Courses, and in a way of Laziness, he was become very expert and knowing in the Vanity and Worth of Jewels; a thing certainly wherein those of but little later times were but meanly practised; for the Story was now commonly known of a Souldier, who in the Reign of *Maximian*, at the Plunder of the King of *Persia* his Camp, having light of a Bag wherein were pretious Stones, cast out the Gemms, as things of no Value; and went away very well pleased with the fineness of the Bag. But now Luxury had so infected all sorts of People, that on a time when a Barber was sent for, to cut *Julian's* Hair, there was one brought to him who had on a very gay Suite of Cloths, at the Sight of whom *Julian* was astonished, and said, *I commanded not a Rationalis*, (of which sort of Persons, formerly;) *but a Barber to be called*. This Fellow being asked what Income he had by his Trade, made Answer, that he had twenty *Annone* (or so many Loaves) by the Day, and as great an Allowance for Horses, (an Allowance for an Horse they called in those times *Capitum*) besides a large yearly Salary, and many other advantages he had of begging Boones. Here at the Emperour was so moved, that he turned him and all his Companions away, (together with *Cookes* and others, Professors of like Mysteries that received the same Advantages) to shift for themselves, as they could. Thus much *Ammianus* tells us of the Corruption of the Court, and the Reformation made by *Julian*. Now let us see how the Reformer, in all Relations, ordered his own Affairs.

Non ut Philosophus inducenda veritas Professor.

Socrates hac à nonnullis laudata, à plerisque autem à improbatà fuisse. Remotis enim tot Palatinis Ministris, qui si non aliud, certe ornamentum ac pompam aula afferebant, vilem & contemptum Principis Comitatum videri necesse est. Ceterum Gregorius Nazianzus, in odium Constantii à Juliano factum esse dicit, & Christianis: Simum quemque à Palatio pulsum. Vide Vales.

Vicenas diurnas respondit annonas, totidemque pabula fumentorum quæ vulgo dicuntur capita.

Julian professes himself a Pagan.

Cunningly divides Christians.

5. And first for his Religion, although from his very Childhood, he was much inclined to Paganisme, and as he grew up, his Inclination that way still more increased, yet not daring to shew it, with as great Secresie as he could, he had meddled with Matters relating thereunto. But now that his Fears were removed; and he had Liberty to do what he listed, he revealed the Secrets of his Heart, and in Plain and downright words commanded by his Edicts, both that Temples should be opened, Sacrifices be offered as formerly, and the Worship of the Heathen Deities restored. And that his Design might take fuller Effect, having sent for the Dissenting *Christian* Bishops with their Followers to the Court, he told them, he would have them bury all Dissentions amongst themselves, and, without all Fear or Controul, every one live after his own way; and this he did with great earnestness and Cunning, that this Liberty procuring great Disagreement, he might not be endangered by that mighty Advantage which their Unity would have procured to them. For he knew very well from Experience, that no wild Beasts are so fierce and violent against men, as *Christians* commonly one against another. And he would often cry out, *Hear me whom the Allemans and the Franks have heard*, therein thinking he imitated the Saying of *Marcus Aurelius*; though not a little differing. For that Prince when passing through *Palestine*, toward *Ægypt*, he was

much

Sect. 5. much pestered by the stinking and tumultuous Jews, cried out with grief, O Marcomanni, O Quadi, O Sarmatae, At last I have found out more troublesome People than your selves. About this time he was much troubled by the importunate Addresses of many that came out of *Aegypt*, being, as naturally that Nation then was, very much addicted to Suits and Troubles; and so Covetous as well as Impertinent, that if they had given any Money for doing Business, as either to procure the mitigation of a Fine, or longer time of payment, they would earnestly contend to have it restored. They so plagued with their noise, both *Julian* and the *Præfeci Pretorio* (not being satisfied except they could recover money which had been so employed, though seventy years before) that they could do no other Business for them; and therefore the Emperour, for his own Quiet, and the Repose of his Ministers, by an Edict commanded, that they should all pass over to *Chalcedon*, whither he promised that he himself would shortly follow. But there when he had them, Command was given to all Boat-men, that they should not dare to bring over again so much as one *Aegyptian*, which being carefully observed, this their Design of Informing fell to nothing, and they were all forced to return home as they came. But this gave occasion to the Promulgation of a Law, as *Ammianus* tells us, whereby no Person that had legally received any Money for doing any Business, should be molested.

Provoked by the troublesome and impertinent Egyptians,

He Publisheth a Law.

6. This Law is still Extant in the Code of *Theodosius*, and the very first that therein we find made by *Julian*. But, besides what *Ammianus* writes concerning the particulars for which the *Aegyptians* made so troublesome an Address, it principally aims at such as had given Money for Places or Offices in the Commonwealth. For, amongst other means of getting Money, the *Palatines*, or Courtiers of *Constantius* understood this very well; it being a Trade seldom unlearn'd by bad men about Princes, to make money of the Employments of which they have the bestowing; the great Cause of ill Management of Affairs, when Preferment goes not according to Desert, when men are not sought for that are fit for Places, but such Places as may be fit to advance and enrich, are sought for men. Yet by what this same Author *Ammianus* writes it is evident that this corrupt course of giving and receiving Money for Honours did not in *Constantius* his time extend to the filling of any eminent Offices either in Court or Camp with new upstarts or unexperienced Persons, he being wonderfully cautious to prevent all such Abuses. However, *Julian* signifies in this his Edict, that some there were who through base Fictions or Lies had thrust themselves into Places, which ought to have been conferred upon good and deserving Persons; and others have written that Offices in the time of *Constantius* were set to Sale, which must have been then meant of the inferior sort, and such as were removed from his own Observation; for indeed it was impossible but that one who was so served by Eunuchs and other Flatterers, should be sometimes over-reached in bestowing inferior Places of Magistracy. But however as to the Law, it was neither allowed to give nor to receive any Gifts of this Nature. Yet if such a thing had hapned, he that had received, and was in Possession was ever esteemed to have both the more legal and more plausible Title; and for as much as the Roman Laws (so *Julian* tells us in this Edict) are utterly Strangers to such Contracts, he takes away all Power of recovering Money so dishonestly employed. But in case any should endeavour to recover such Money, or get it back into his Hands, he should not only lose it, or return it to the Party, but forfeit as much more to the Publick Treasury. Now this Constitution respects only the time past, and gives order in such cases as were then in Contrivance; but afterwards several other Laws were made by succeeding Princes, both for punishing in the same sort such as had used Bribery for the obtaining of Preferment, and for prevention of the Sale of Honours and Offices, even by way of Oaths, as we may see in due time. For this practice still returned, as Princes became obnoxious to their Freed-men, Eunuchs and Courtiers; and hard it was utterly to prevent it; for, though the Emperours, as we see by *Constantius*, might be severely careful, that in Places near them and under their Eyes, none but fit and experienc'd men should be preferred; yet they could not know all Persons, nor out of their own Acquaintance make provision for the Supply of those Numerous Employments and Charges through this vast Empire. Such they must take as those about them recommended, so that (as was formerly said) the work of a Prince, especially lyes in chusing such Eyes and Ears about him as he may trust, in what he cannot see and hear himself: Ill management when it happens begins most commonly here, and Government is hereby rendred as Culpable and Infirm, as the Growth and Nourishment of the Body perverted, when the first Concoction thereof is vitiated.

Sect. 5.

He reforms
Matters relating to the
Camp.

7. When the first day of the year was come (on which this Law beareth Date) which gave beginning to the Consulship of *Manertinus* and *Nevitta*, the Emperour himself condescended so far as to walk on Foot with the rest, at the (a) Solemnity, which some commended as the Effect of his Humility, but others condemned as below him and proceeding from Affectation. But this Affectation he began every day more and more to shew. He himself would manumitt the Slaves, they being introduced forsooth by the *Proximus Admissio*, till he was told, that that Jurisdiction now belonged to another, Being acquainted that *Maximus* the Philosopher was come to see him out of *Asia*, in an unseemly sort he leaped up, and forgetting what Person he was, ran as fast as his Legs would carry him a great way out of Doors, fell upon him and kissed him, and then brought him in with great Ceremony; which rendred him (b) ridiculous for his unseasonable Ostentation, and immoderate thirst after vain Glory. And in the Opinion of *Ammianus* herein he forgot that Saying of *Tully*, by which he and such like are censured. viz. Those very Philosophers even to those Books which they write against Vain Glory, prefix their own Names, with Design, that by that very Act whereby they despise Honour and Fame, they themselves may be spoken of and commended. Not long after, two of those *Agentes in Rebus*, who had been turned out, came confidently to him, and offered, on Condition they might be restored, to discover to him *Florentius* the late *Præfect*; but he reviled them and worthily called them Informers, adding withal that it was not the part of an Emperour by any indirect Discoveries, to find out a man who concealed himself for Fear of Death, and who perhaps would not long be suffered to lye concealed without Hope of Pardon. But he not only endeavoured a Reformation in civil Matters; into the Affairs of the Camp he also made diligent Inspection. He preferred such to Commands as he knew well experienc'd, reinforced the Cities of *Thrace*, and was very careful that neither Arms, Clothes, Provisions, nor Pay should be wanting to those Souldiers whom he understood to have gallantly demeaned themselves upon the Limits of *Ister*, against the Incurfions of the Barbarous Nations. In Reference to what *Ammianus* thus discourseth, concerning his Care about the Provisions of Souldiers; there is a Law of his extant in the Code, and dated on the sixth of this same month of *January*. When they were in their March, their Provisions both for Horse and Men were all found them and brought to their hand; but when in Garrison or their Quarters, the Provincials were not bound to bring it, but they themselves looked out, as for other things, for Straw and Provender. Now lest they should range too far, or be too much straitned, by this Edict directed to *Salust* the *Præfectus Prætorio* of the *East*, he ordains that their Purveyance shall extend twenty Miles.

He is courted
by all Nations.

And wonder-
fully elevated.

8. Having settled Matters relating to the Army as he thought convenient, he was advised by his Followers to fall upon the *Goths*, a fallacious and perfidious People; but he answered that he look'd for a more noble Enemy; and as for them, the *Gallian* Merchants would do their Business, by whom they were sold up and down; and yet, notwithstanding his Presumption and slighting of them, this despised People afterward made bold to purchase by their Blood, and possess by their Sword a great Part of the *Roman Empire*. But *Ammianus* further tells us, that thus carefully demeaning himself, he became famous to Foreign Nations, and by Degrees filled the World with the Renown of his Fortitude, Sobriety, Military Skill, and eminency in all other Virtues. And the Dread of him being spread to the same Extent, Ambassadors were now sent to him from all Quarters. Here he gives us an Enumeration, as if he repeated the Epigram concerning the *Speâacula* commonly ascribed to *Marcial*. The *Armenians* and those beyond *Tigris* now begged Peace, and the *Indians*, from Countries yet more Eastward, by the hands of their Noble men made him Presents. From the Southern Parts of the World, the *Moors* offered him their Service. From the *Northern*, and where the River *Phasis* falls into the Sea, the *Bosphorani* and other Nations till that time unknown became humble Suppliants; that, for a yearly Acknowledgment, they might be permitted to live quietly in their own Countries. Those Addresses caused no small Joy at Court, which was farther increased by News out of *Italy*, that the *West* might also contribute her Share. For now News was brought that they within *Aquileia*, convinced that *Constantinus* was dead, had surrendered the Place. *Julian* with these Felicities was much elevated, and began now to entertain Fancies and Designs, which exceeded the Bounds of humane Nature. He look'd upon himself as one, whom governing the *Roman World* in Peace and Tranquillity, *Fortune* presented with a *Cornucopia* of all good things, and to his former Trophies, he added this great Favour, that while he reigned alone (how long it was we shall shortly see) he was neither disturb-

A.D.
362.
*Mamerti-
no & Ne-
vitta Coss.*

(a) *Ludos intellege quos mense Jan. Coss. edere consueverant ex ante diem 3. Non. Jan. in urbe per continuum triduum Per Provincias in majoribus Civitatibus Circenses illi quoque à die 3. Non. Jan. à Magistratibus edebantur ut ex Libanio notat. Valerius.*
(b) *At id factum prædicat. Libanius.*

L. 7. de Erogatione militari. Annone. Militibus ad vicissimum lapidem capitum petere jussimus Dat. 8. Id. Jan. Mamertino & Nevitta Coss.

*Gabata venali-
ciarum erant &
servitia vende-
bant.*

*Que tam sepo-
sita est, que
gens tam barba-
ra Cesar. Ex
qua &c.*

Seft. 5. ed by any Intestine Disorders, nor any of the Barbarous Nations adventured out of their own Bounds; but all sorts of People, being ever violently bent to commend what is past, as very bad, wonderfully admired and commended him. Having disposed of all things, as Time and Place required, and by frequent Speeches, as well as by Pay, animated the Souldier to such Undertakings as he should put him upon, he resolved to remove from *Constantinople*; which City he very much favoured, as the Place of his Nativity, though else it had doubtless been unacceptable to him, by reason of its Founder, and the Name from him received. *Zosimus* writes, that he continued ten Months in this City, but from the Dates of such Laws as he made this Year, it is evident, that the time is to be contracted within Eight, or thereabouts. For, during his Residence here, several other Edicts he Published upon various Occasions, of which we must take notice, at least, such of them as most lead to the Illustration of the History or Polity of these Times, before we follow him hence to *Antioch*.

A. D. 362.

Aviditate
semper insecutan-
di prateritum
damnoſa &
noxia.

Makes a Law
for restraining
the Avarice
of *Numerarii*.

9. Two of these Laws he made for restraining the Avarice and Corruption of the *Numerarii*, Officers of whom we have formerly spoken, who, amongst other Matters, having the Accounts of Corporations in their hands, often play'd the Knaves either with them or the Publick. He therefore makes them lyable to Examination by Torture, for the better Discovery of their Cheats: Ordains, that "having been employed five years in the Publick Accounts, they be out of Service" and all Employment the sixth, that so they may be more liable to Accusations; "but after seven years, in case they have well demeaned themselves, and either have been burthened with none, or answered all Accusations, he then will have them enjoy the Dignity of the *Perfēctissimus*. We have lately seen how at his first coming to the Monarchy he employed *Sallust* his *Præfēt* and others, in the Tryal of such as had the Repute of being Enemies to him and his Brother *Gallus*. While they were at this Work, and might have occasion to Examine and Censure several that bore the Dignity of *Senators*, he directed an Edict to *Sallust*, bearing Date of the Nones of *February*, for moderating the Rigour of such Proceedings against Persons of that Quality. Although by the Custom of the *Roman Empire*, some sorts of Persons, when accused of Crimes, were not shut up in close Prison, yet, till they were tryed, and either acquitted or condemned, they were wont to be held in a sort of Custody by the *Apparitor*, *Agens in Rebus*, or Messenger that had been sent to fetch them up. Now *Julian* by this Edict, not only Ordains, in such cases, that the Antient Right of *Senators*, and Authority of that Order, be preserved inviolable from all Injury in general, but particularly Commands, that such being Accused, before their Tryal, have no cause of Terroure offered to them, but be void of all Calumny and Suspicion; and (what is most) be absolutely free and at liberty till such time as they be either Convicted, or confess the Crime; in which case, he acknowledges them to have incurred Deprivation. Indeed such as were only accused, though of Capital Crimes, though they could not be admitted to new Honours, or Preferments, their Cause depending, yet, till their Tryal retained their former Dignity; in like manner, as by the *Canon Law*, a Bishop, before he be heard and condemned, ought not to be deprived of his Bishoprick. And, as to *Senators*, they were wont to be kept in free and honourable Custody, neither at their Tryal were they bound to stand, but they might sit, though upon a Seat inferiour to the Bench of their Judges. As a Senator retained his Dignity till Tryed, so was it agreeable enough that he suffered no Injury, Reproach or Molestation, as Guilty, before such time as he so appeared; but in point of Liberty, that he should be absolutely free, and in no Custody at all; this was such a Privilege as could not comport with the Publick Safety, giving leave to Offenders, how Criminal and Dangerous soever, to make their Escapes, and avoid their being made Examples; which ought to be the end of all Punishments. Therefore was this Indulgence to *Senators* afterward taken away, and when *Justinian's Code* came to be composed, the former Part of this Law, which speaks of the Preservation of their Rights and Authority, only was inserted into it; the latter part concerning this new Privilege granted by *Julian* being left out. But the reason he gives, is, because he reckons himself also one of their Order or Rank, as several Princes both before and after him, have also expressed themselves, though without the Grant of so dangerous a Privilege. Hence was the Emperours own House subject to that Charge which was called *Onus Glebale*, and was proper to *Senators*. And the Daughter of a *Senator* could not marry to one whose Father had been a Slave.

LL. 6, 7. de *Numerariis*, *ab Numerariis*, &c. *Cod. Th. lib. 8. tit. 1.*L. 1. de exhibendis vel transmittendis *Reis Cod. Th. lib. 9. tit. 2. Lex 8. Cod. Justin. de Dignitatibus hinc desumpta est.*Vide *Gothofred. in L.**Jus Senatorum & auctoritatem ejus ordinis in quo nos quoque ipsos esse numeramus, necesse est ab omni injuria defendere.*

Another in
behalf of *Senators*.

Another for
Confiscation of
their Estates
if Traitors.

10. But, though *Julian* was thus indulgent to *Senators* before Conviction; yet when condemned or proscribed he was as severe in the Point of the Confiscation of their

Sect. 5. their Estates. For, having been informed that some there were that concealed their Goods, by an Edict directed to *Felix the Comes Largitionum*, he commands, that such Concealers if they be Rich, be also proscribed; and if they be Poor, and thereby as he phraseth it, be abject as far as the Dreggs, and baseness of *Plebeians*, that then they be put to Death. This Law is said to have been published at *Rome*, on the ninth of *March*, where the Habitations of several *Senators* proscribed by *Julian* upon the Account of him and his Brother, were. But whereas this *Felix* his *Comes Largitionum* was an Apostate as well as himself, this Direction of the Edict to him hath induced *Baronius* to believe, that he intended it against such as concealed the goods of proscribed *Christians*; it ordinarily hapning that none are so zealous and furious in their Way as Apostates. Indeed the Penalty is severe to all Extremity; and might become as an Apostate to enact, so also a Fugitive from his Religion to execute. But, besides that there were those that he proscribed upon the Account of him and his Brother, and as *Zonaras* writes, he banished many, and confiscated their Goods, so *Christians* he did not now proscribe as *Christians*, neither in the Beginning of his Reign did he persecute them, but, cunningly and underhand endeavour to undermine them and their Religion. He was now rather acted by the pleasant Passion of Revenge which when backed by Supream Power seldom knows moderate Bounds. There were several that had done ill Offices with *Constantius*; that had helped on his Brother to his deserved end, and esteeming him perhaps an Usurper, as well as fearing him, had tampered about promoting others to the Imperial Dignity. Of the Proceſs framed against these Persons he himself makes mention in a Letter written by him at this time to *Hermogenes* the *Præfectus Augustalis* of *Aegypt*, and beginning with a Rapture. He prays him to permit him with the Poets to say *Oh how beyond Hope am I preserved! Oh Message beyond all Expectation that I have escaped, not so much that Hydra with many heads my Brother Constantius (he was as he was) but the wild Beasts his Attendants, who endeavoured to murder one with their very Eyes, and made him more cruel than he had been else, who was not very merciful neither of himself, though to many he appeared so to be. But seeing he is dead let him go as the Proverb is; as for them, Jupiter knows I would not have them suffer unjustly, but because they have many Accusers they are called to their Tryal. As for thee my Friend, endeavour, even above thy Power, to be with me, for I protest to the Gods I desire to see thee, and rejoycing to hear thou art in good Health, command thee to come. Thus he writes to his dear Hermogenes, whose Presence possibly he requires at the Tryal of those Criminals. As for his Protestation that he would not have them to be punished unjustly, compare it with what *Amianus* writes concerning *Ursulus*, *Taurus* and others.*

He makes good Laws about the management of the *Cursus Publicus*.

II. Whether or no as to this Point he consulted his Passion, we determine not; but another Law he made about this time which tended much to the publick Service. *Constantius*, as we have seen, by several Edicts took great Care of the *Cursus Publicus*, both as to the restraint of the too common Use made of it, and reforming other Abuses in it's management. But the Remedies were not potent enough to conquer the Disease. What by reason of the too much hagling them about through perpetual Employment, (much occasion'd by the Travel of Bishops to so many Synods as were held during his Reign) and the Neglect of them by their Keepers, the Beasts that drew the Waggon were most of them tired out, and not able to travel, toward the latter end of his Days, if we may believe *Libanius* in an Oration composed in Honour of *Julian*. *Constantius* to prevent their too frequent Use had taken away the Power of granting Licenses, from the Governours of Provinces; but they had reassumed the Privilege either by his particular Command, or of their own Heades, and by Connivence. Of this, *Julian* by an Edict directed to *Mamertinus* the *Præfectus Prætorio* taking Notice, abrogates fully the Power of granting License, to all Persons except him and his Brethren the *Præfects*. But that publick Affairs may not be hindred, he tells him that he himself will with his own Hands give to *Vicars* ten or twelve Courses, and they the *Præfects* should grant to *Presidents* two yearly, that thereby they may upon urgent Occasions send their Officers into the most remote Parts of their Provinces: and besides when there was any need of consulting him or referring to him; upon such Emergencies he himself would grant them particular Licenses. Hence it is that some write how *Julian* taught his Subjects either to keep Horses and carriage-Beasts of their own, or to hire when they had Occasion, and not to burthen the Publick Course destined only to publick Service; as for sending down the Emperours Commands, Conveyance of Ambassadors * or Messengers to him, and of the publick Revenue to the Court: in a Word, as *Cassiodorus* expresseth it, whatsoever almost was transacted

L. 12. de Cursu Publico &c. Acc. 8. Kal. Mart. Syracusis Mamertino & Nevitta Coss. Abest à Cod. Justin.

* ut pene quicquid in Republica geritur, Cursu ali Ministerio Compleatur. Var. lib. 3. Ep. 5.

ed

ed in the Commonwealth, was performed by the Service and Convenience of the *A. D.*
Curfus. Now to *Vicars*, as being Officers of greater Dignity, by their Place *Spe-* 362.
tabiles, and the Jurisdiction of whom extended to a whole *Dicetse*; he gives more
 Courses and that by his own Hand than he allows by the *Præfects* to be granted to
 the *Præsidents* and *Consulares*, who were but *Perfèctissimi* or *Clarissimi* by Degree;
 and governed but particular Provinces. But this law was, too strictly worded at
 least; and that in Reference to the Conveyance of the publick Money to the Treas-
 ury; and of the Souldiers Clothes (both which are signified by *Species Largitiona-*
les) without which nothing could be done either at Home or abroad. For, the *Vi-*
cars were not alwayes present to give out Licenses upon these Occasions; and
 therefore by another Edict, directed to the same *Mamertinus*, he explains and mends
 his former; giving Power to all Governours of Provinces in their Absence to grant
 them; but this upon Suggestion of the *Comes Largitionum* and the *Præpositi*, or Offi-
 cers belonging to the Revenue, which *Valentinian* afterwards confirming calls
 a most prudent or advised Law. Yet did not *Julian* think it so prudent as fully to
 provide against Abuses of a thing of so vast Consequence to the Empire. For with-
 in three Moneths after he found it requisite, by another Constitution still directed
 to the same *Præfect*, to inflict no less than capital Punishment upon him that
 should use more Horses or Beasts than his Warrant or License expresied. There
 are two more Laws ascribed to *Julian* concerning this Subject, whereof the former
 will be more conveniently mentioned upon another Occasion, and the other though
 it bears his Name; yet by the Subscription it should rather belong to his Successor.
 However, here it will be convenient to take Notice that it hath relation to the pub-
 lick Course of the Province of *Sardinia*, and the ease of the Inhabitants of that
 Island. For, *Sardinia* lying out of the way, there being no Road through it into
 any other Province, *Julian* (or *Jovian*) thinks fit that the People be not put to
 any Expense for the finding of Horses; or if there was any Occasion to go Post,
 the Officers of the *Præsident* he declares shall find themselves Horses upon such ne-
 cessary Occasions. But whereas there was great Use of the *Angarie* or Carriages
 drawn by Oxen for Conveyance of Corn (for this Island as well as the adjacent
Sicily, was a Nurse of the City of *Rome*) to the several Ports, of which there
 were seven in number; he ordains that the Use of them continue; and that *Ma-*
mertinus under whose Jurisdiction this Island lay, should settle such Order about
 them, as he thought most convenient.

12. There is another Law made by him, while he still resided at *Constantinople*,
 which is not so remarkable of it self, as for the manner and circumstances of the
 making of it. For, the Title of it shews plainly the manner of the Emperour's pro-
 ceeding in Consistory, or when he sate in *Council*, in these words: *Part of the Acts*
had before the Emperour *Julian Augustus*, when *Mamertinus* and *Nevita* were *Consuls*,
 on the three and twentieth of March at *Constantinople*, in Consistory; there standing by
Jovius, of the Dignity of *Clarissimus*, the *Quæstor*; *Anatolius* the *Magister Officio-*
rum; *Felix* the *Comes Sacrarum Largitionum*, &c. The Emperour *Julian Augustus*
 said: after which follows a Sentence given by him in *Greek* concerning the Validi-
 ty of Writings, that Credit be afforded to such, as by others are not proved to
 be counterfeit or invalid. Now this Law, which is very singular and remarkable in
 divers respects, is one of that sort called *Cognitionales*, or which the Emperour, ha-
 ving cognisance of a Cause debated before him in Council, pronounced and Enact-
 ed thereupon; of which kind there are others in the Code of *Theodosius*. It's call-
 ed *Part of the Acts* or Records, because a Book or Record was kept of all done or
 transacted in Consistory, as from the time of *Henry* the Eighth it hath been the con-
 stant custom in the Privy Council of *England*, which, in several respects, resembles
 that of the Emperour. In whatsoever place he consulted with his Council, that
 Place was called the *Consistory*, be it where he would. Here is expresied the com-
 position of his Consistory or Council, of whom it consisted, and though only three
 be mentioned, viz. the *Quæstor*, *Magister Officiorum*, and *Comes S. L.*; yet by the
 &c. others are understood to have been present, comprised, as well as these, amongst
 the *Comites Consistoriani*, of whom heretofore. In the next place may be observed,
 the Place and Precedence of these Great Officers, in the time of *Julian*, what it was.
 Again, we may take notice of the Ceremony of these Dayes, and what respect the
 Councillors bare to so great a Majesty as that of the Emperour; for while he sate,
 they stood by him, and much more did the Parties and Advocates concerned in the
 Cause: a Posture very fit to shew their Distance; the Ceremony of being uncovered
 not being then in fashion, as in after-Ages: And yet there are several Instances in
 Histories, of the sitting of these *Consistorians* with the Emperour. Further, we may see
 how

Another Law
 which shews
 us the manner
 of the Consis-
 tory.

*Partes Actorum
 habitum apud
 Imp. Julianum
 Aug. Mamerti-
 no & Nevitta
 Cons. 10 Kal.
 April. Con-
 stantinop.
 in Consistorio.
 adstanti viro
 cl. Jovio Quæ-
 store; Anatolii
 Magistro Offi-
 ciorum; Felice
 Com. S. L. &
 Imp. Julianus
 A. dixit.
 Ἰνναύτῃ
 ὑπαμάρτῃ
 &c.
 L. 5. de fide Te-
 stium & Instru-
 ment. Cod. Th.
 lib. 11. Tit. 29
 Absent à Cod.
 Justin.*

Sect. 5. how the Rule of Entring things down in the Consistory, was, to prefix the Names of such Councillors as were present (at least some, and the choise of them) as our Clerks of the Council practise at this day. And in the last place, we cannot but take notice of a Novelty, which expresses the Humour and Affectation of the present Emperour. It was the Custom before his time, that the Emperours, when in Consistory, gave their Sentence, or pronounced their Decree in *Latin*, as the Language of the Empire, to preserve the Grandeur and Majesty of *Rome*, from which, all must needs be acknowledged to have proceeded; though Necessity of Affairs might urge Princes to have their Residence, at least sometimes, at another Place more conveniently situate for Defence and Succour of the Provinces. But *Julian* his Vanity now broke the Course, who, as appears from *Ammianus*, was, not without occasion, (saith *Gothofred*) derided with the Names of *Loquax Talpa*, and *Literio Græculus*, and out of this Affected Humour he inserted *Greek* words into his Constitutions. As for other Laws, viz. Rescripts or Edicts, sometimes they were Published in both Languages; and for this reason, as *Justinian* renders it, that being in *Greek*, they might be understood by more, and in *Latin*, to observe the Form and Decorum of the Empire. In Publick Assemblies they spake in *Latin*, and had an Interpreter, as *Constantine* the Great in the Council of *Nice*: But some time after, especially when the Western Provinces were over-run, and there was not so much Use of *Latin*, *Greek* was generally spoken by them, as best understood both by Speaker and Hearers, and the *Roman* Tongue by degrees began to be disused, till *Justinian* restored to the Empire its Western Provinces; and presented it with a new Model of its Laws, dressed up in its own Language. But after his time all went to wreck again.

Illud igitur Juliani Imp. vanitati adscribendum fuerit, quem olim merito Loquacem Talpam & Literionem Græculum carpebant, teste Amm. Marcellino, lib. 17. Vide Gothofr.

13. This Law, made in Consistory, as we said, was of little Concernment, the Preamble being only of Use; but about a Month after, he made another Constitution, wherein his Subjects, whether of *Constantinople* (for whom possibly he principally intended it, being said to have done so many things for that City) or other Places, were much concerned, at least, as he believed: the thing was this. It was the custome of old time, that, when the *Roman* Generals had performed some notable Matter, the Provinces, the associate States and Kings presented them with Golden Crowns, or a quantity of Gold it self, therewith to grace their Triumph, and this was called *Aurum Coronarium*, being a thing of course, not only amongst the *Romans*, but the *Greeks* also. When *Claudius* triumphed over our Country of *Britain*, amongst other Golden Crowns, the hithermost *Spain* presented him with one of seven pounds weight, and *Gallia Comata* with another weighing nine. To *Titus*, for his Conquest of *Judea*, were Crowns sent by *Vologesus* King of the *Parthians*, and to succeeding Princes the same, by others, upon like occasions; for, Histories other Books afford many other Examples; which from Victories were drawn at last to other Emergencies, so that the Provincials presented this Gold also, and that by Custome, as good as Law, when any remarkable matter of Joy hapned, as at the coming of a Prince to the Government, upon his Adoption, or any Pardon or Indulgence granted the Subject. But *Julian*, now, by an Edict, declares, That it is a free Gift, and depends meerly upon the Will, without any Necessity, (to which Custome, and the Greediness of some Emperours, had brought it) lying either upon Senators or any other sort of People. Not but that he himself received these Crowns, or Gold that was presented him by Cities and Provinces at his Arrival there, or in some other gratulatory Address; as particularly from the Inhabitants of *Ephessa*, and from the *Saracens*; but herein he also practised Moderation, commanding that no Crown should exceed seventy *Solidi* in value. Yet doth he acknowledge, that sometimes Necessity of Affairs may require the Exaction of this Gold, but in such case he will not have others to be Judges (as the *Præfæcti Prætorio*) but reserves the Power of Determining when it is fit to accept of this voluntary Present (or require it) to himself. This Law bears Date on the twenty ninth of *April*, and on the day following another there we find though not concerning the same matter, yet of the same Nature, viz. of Indulgence toward the Subject; so that *Gothofred* rationally concludes them but several Parts of one and the same Constitution. Sometimes there had been Indulgences granted to particular Persons or Places, whereby they were discharged, by singular Privilege, from the Duty and Burthen of the *Capitatio* heretofore mentioned; but it seems betwixt them and the Officers that collected that part of the Revenue, Disputes were at this time wont to arise, how far or to what those Privileges did extend. Now he follows that Rule in Law which directs us in ambiguous things to the most favourable Interpretation, explaining by such Indulgence and Immunity a full Discharge not only

L. 1. de Auro Coronario, Cod. Th. l. 12. tit. 13. Dat. 3 Kal. Maii, Mamertino & Nevitta Coss. Absq. à Cod. Just. Vide Com.

L. 2. de Immunitate Concessa, Cod. Th. lib. 11. tit. 12. Absq. & hæc à Cod. Just.

In ambiguis favorabilior sententia est sequenda.

from

By another Edict he declares the *Aurum Coronarium* to be a meer free gift.

Señ. 5. from the Payment of the Grain called *Species Annonaria*, but the other *Species* wont to be paid in by the Provincials, as Cloaths for Souldiers, Gold, Silver, Brass or the like. And yet could there not be so great Difficulty in what was meant by *Capitatio*; by it being signified all those Payments made in respect of Lands, and for Heads in what *Species* soever, as *Gothofred* observes; but *Julian* subjoyns a Reason, not taken at all from Law, but for ostentation of his own Humanity or Indulgence, of which, many Examples may be produced out of the Laws, and from elsewhere.

14. Of this Indulgence, about this very time, part he extended to the Professors of Physick by another Edict, dated also at *Constantinople*, on the twelfth of *May*. What Privileges and Immunities had been granted by former Princes, and confirmed with Enlargement by *Constantine*, we have already seen; but it should seem that *Constantinus*, his Son, had some way or other infringed their Liberties, or else *Julian* gave another proof of his vanity and ostentation in this particular. For, beginning with a Preface, how the Art of Medicine is by Use it self demonstrated to be healthful to Mankind, upon which Account the Philosophers not improperly affirm it to have come down from Heaven, the Infirmary of our Nature, and the Impairments of our Health, which daily happen, being hereby relieved; thereupon he Ordains, by his Humanity, as Reason requires, therein following the Authority and determination of former Emperours, that for the time to come, they the Physitians, shall be free'd from all publick Services. The Edict only, or Sanction is now inserted into the Code of *Theodosius*, but all the whole Law both Preface and Sanction is still extant amongst his Epistles, with this Difference from the other, that what the Edict in the Code expresseth concerning publick Services, this other speakes of those belonging to the *Curia* or publick Councils of Corporations, to which a former Constitution of *Constantine* hath a particular Respect. Now this Edict is directed to the *Archiatry* in the Code; though amongst the Epistles, the Title expresseth it to be *Julian's* Law concerning Physitians in general. But by *Archiatry* are meant those who practised, though to private Persons, within the two Cities of *Rome*, and *Constantinople*, whence the Law bears Date, and where still *Julian* resided. For by this Appellation were not meant anciently those who were the principal Physitians, but they were so called who were either Physitians to the Prince himself in his Palace, or Physitians to the two principal Cities; wherein they also had Publick Allowances, that they might take care of the Poor as well as the Rich; neither had they only this Title which were Principals, or presided in the College, as some have imagined, but all of them were indifferently so called. But thus we have given Account of such Laws as *Julian* made, whilst at *Constantinople*, and are proper for us here to mention. Now let us follow him in his Progress Eastward.

15. Having crossed over into *Asia*, he passed through *Chalcedon*, and *Libyssa*, (where *Hannibal* was buried) and thence came to *Nicomedia*, at present a famous City (though much more famous, had it not been for *Constantinople*;) a City so enlarged and beautified by the Care and Expence of former Princes, that in respect of the multitude both of Publick and Private Buildings, to those that knew it well, it seemed one of the Regions of the *Eternal City*, saith *Ammianus*, meaning *Rome*. When he saw how her Walls were now reduced to Ashes, he bewailed with tears her Condition, and with a slow and mournful pace passed on towards the Palace, but especially when he beheld how ragged and despicable the Inhabitants were that met him, though heretofore in so flourishing a Condition; and some he remembered that were akin to *Eusebius* the Bishop, by whom he had been brought up. Being now moving toward the East, and designing in his Head to attempt something against the *Persian*, for which End he made all the preparations *Ammianus* speaks of; one Law he passed, while he staid in this City, for the Ease of the Countreys, through which his Armies were to march. The Provincies were bound to find the Souldier Provisions for Man and Horse as we have seen, which Burthen it concerned the Emperours to render as light as might be, and that no needless thing should be required. Therefore were they wont to set certain times to the Payment of the several Duties, as might be most for the Ease of the Provincies: the Provincials were allowed to serve the Army with new Wine, from the Month of *November*; it being cheaper than the old; and now by an Edict *Julian* commands that Meat for Horses shall not be furnished by them till the first of *August*, for this Reason, as is conceived, because in the Summer-time there was grass enough to be had, and they might easily put them out to feed in all Places. Having enacted this Law, and taken order for repairing those Breaches which the Earthquake had made upon the Place, he removed from *Nicomedia*, and, by *Nice*, came to the Borders of *Galatia*, where

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Et rationem addit non J. vel ἔταχεν, verum ἀπέχρησε, ostendunt tantum Humanitatis & Indulgentie suae.

L. 4. de Medicis, Cod. Th. lib. 13. tit. 3. Dat. 4 Id. Maii. Const. Absq. a Cod. Just.

Ep. 26. p. 154. ημετέροις φιλανθρωπία κελεύομεν τῶν βαλευτικῶν λειτουργημάτων ἀνενοχλήτους ὑμᾶς τοῖς λοιποῖς χρόνοις ἔσθαι. Ἰουλιανὸς νόμος περὶ τῶν ἱατρῶν.

Nicomediensis Eusebii Arianæ factionis columen, primò Beryti, deinde Nicomediæ Episcopus, et demque Paulopulso Constantinop. sedem tenuit. L. 8. de Erogatione Militaris Annone, Dat. Nicomediæ.

And marches toward the East.

Sect. 5. where he turned on the Right hand toward *Passinus*, there to see the old Temple of the Mother of the Gods, whence in the second *Punick* War *Scipio Nasica*, conveyed her Image to *Rome*, by reason of an Hint thereof given by the Verses of *Sibylla Cumana*.

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16. Having here done his Devotions, at no less Expence than of Sacrifices and Vowes, he returned to *Ancyra*; and in his Progress was ever importun'd by a Multitude of Suitors, of whom some desir'd they might be restor'd to such Possessions as had been violently taken from them, others complained that they were unjustly forced to the Service of Corporations, and some without Regard to any *Decorum*, so that they might gratifie their Malice, accused their Adversaries of high Treason. But he being, as his Friend the Historian tells us, more severe than *Cassius* or *Lycurgus* themselves, fully weighed the Circumstances of every mans Cause, and distributed Justice with all impartiality, but with a great Aversion towards Informers, whom he had Cause to hate, for having himself been indangered by them heretofore, whilst a private Man. Of his Moderation in this point, he gives us one Example instead of many others. There was a certain Person who most vehemently accused another, to whom he bore a mortal Grudge, of no less than Treason; and when the Emperour took no Notice of it, he still came, and every day renewed his Accusation with much Clamour. At length he was asked who it was that he accused. He answered a Rich man in a Corporation; whereupon *Julian* demanded with a Smile, what Proof he had of the Crime, to which he replied, that *He had made him a Garmet of Purple Silk*. Upon this he was bid be gone as frivolous and troublesome; but still he would not be quiet; whereupon *Julian* turning to the *Comes Largitionum*, bade him give this dangerous prating Fellow a pair of purple Shooes to carry to the man who he said had got him a Vest of the same Colour, that it might be known of what Value and Force such Trifles as Hose and Shooes were, without being accompanied by sufficient Power. But as these things are to be commended, saith our Writer, and to be emulated by good Governors, so another thing there was which was notably severe or bitter; for scarcely was there any one challenged by the *Curiales*, or those of the Corporations, as lyable to their Burthens and Services, however enfranchised by Privileges, by long Service in the Warrs, or by an Original or Descent utterly estranged from them, who ever could obtain any Right at his Hands. Being come as far as *Pyle*, or the Streights which divide *Cappadocia* from *Cilicia*, he received the Governour of the Province, whom he had known when he studied at *Athens*, with a Kiss; as the manner was; and taking him up into his Chariot carried him to *Tarsus*. And now drawing nigh to *Antioch*, that beautiful Head of the *East*, he was met and received with Vows, as if it had been some Deity; so that he could not but admire the Acclamations of the People which were made to him as a lucky Star now risen upon the *Eastern* Parts. He entred the City at the time of the Celebration of the *Adonia*, or of the Lamentation of *Venus* for *Adonis* his being killed by a Boar; which was esteemed to portend no good, that he should make his Entry at such time as the Place was full of sorrowful Noises and Groans. This was toward the latter end of *June*, or after the Summer Solstice, when Corn is fully ripe; for by *Adonis* is meant the Sun, which being in Winter kept under the Earth for the most part; our Hemisphere, by the Ancients called *Venus*, is said to lament him as killed by a Boar. The Boar representing Winter as a Creature rugged, fierce, and loving dirty Places.

na illud amarum & notabile fuit.

Vide Macrobianum in Saturn. lib. 1. c. 21.

17. The first thing done by *Julian* after his coming to *Antioch*, and related by *Ammianus*, is, an Example of his Patience and Mildness, a matter of light Moment he tells you to Appearance; but for all that to be admired, or wonderful. There was one *Thalassius* that had born the Office of *Proximus Libellorum*, whom he hated because he had been an Enemy to his Brother *Gallus*; and upon this account he was prohibited to adore the Purple, or be in the Company of the *Honorati* at that Ceremony. This being taken Notice of by some that were at Law with him; the next day after, they came to the Emperour and clamour'd, that *Thalassius* his Enemy, by Force had taken away their Goods, which he knowing to be designed for the Ruine of the man, answered that he acknowledg'd that with him whom they spake of he was offended, and that for just Reason; but for as much as he himself was the more considerable Enemy they ought to sit still and be quiet till he had first received Satisfaction; and therefore he commanded the *Præfēt*, who sat by him, not to hear their Cause till he was reconciled to *Thalassius*, which shortly after came to pass. While here he winter'd and spent his time according to his Wish, he indulged not himself in any of those Pleasures with which *Syria* abounded; but under a Show of Quiet, being intent upon hearing Causes judiciously, no less difficult than matters concerning War, (b) was distracted by manifold Cares, with exquisite dexterity weighing with himself how he might give every one his Due, and how best, by his just Decrees, Offenders might be punished with

Hic patientie ejus & lenitudinis documentum leve quidem apparuit sed mirandum.

(a) Thalassius quippe relicto Christi cultu ad Deorum cultum transit, & ita cum Julianus in gratiam rediit. Plerique eo tempore idem faciebant munitiones & hyemmodi assinationibus a Juliano distincti. Vide Valerium in locum. (b) longo diversâ Gregor. Nazianz. in Julian. Orat. 4.

Seet. 5. Moderation, and the Innocent protected. For though our Historian confesseth he was otherwhiles impertinent or unseasonable in the Debates, by demanding at such a time as was no whit proper, of what Religion each of them was that were at Law; yet were none of his Sentences or Determinations faulty, neither could it be proved that out of respect to Religion or any other thing, he deviated from the Course of Justice; to that of Partiality, which he shunned as some dangerous Rock. And this he could the better do, for that acknowledging the Levity and Heat of his Nature, he permitted the *Præfets* and those about him, to restrain his Impetuosity by seasonable Hints; and he shewed that he was troubled at his Faults, and rejoiced in being corrected. When the *Advocates* that pleaded before him would applaud him, as one that perfectly understood what Reason was, he is reported to have said in Anger, that he should have rejoiced and been proud had he been commended by such as durst have reprehended him, had he done otherwise than well. Another Example *Ammianus* will give you, which yet also may stand for many, of his Clemency in hearing and deciding Causes; and this we shall also relate that we may not seem to omit any thing brought in his Commendation. There was a Woman had a Cause depending before him, and that against a Courtier, whom when she saw amongst the *Protectors* and girt with the usual Girdle, being struck with so unexpected a Sight, she began to complain and make Disturbance; but he bade her follow her Business, if she found her self concerned: for as for her Adversary he was so girt that he might go more readily through the Dirt, and was not able to do her any Harm. In respect of these and other things (and he himself you must know daily said it) old Justice, which being offended with the wickedness of mankind was by *Aratus* lifted up into Heaven, in his Reign returned back to Earth; if he had not done some things by his meer Will and Pleasure and from no warrant of the Laws; and sometimes by Errors clouded the manifold Courses of his Glory, as his Historian wordeth it. Yet after many other things, he also amended certain Laws, cutting off their Ambiguities, and explaining fully what was commanded or forbidden by them. But that, saith he, was unmercifully and with perpetual Silence to be overwhelmed, that he prohibited Professors of Rhetorick and Grammar to teach, if they were of the Christian Religion. This, whereof *Ammianus* so much and justly complains, we shall further examine, and discover amongst Matters peculiar to Religion. At present we shall take a View of the Laws themselves made by him at this Time and Place, and see how far they discover such Amendment as that Author writes of.

Ammianus his Relations concerning his Justice and other Virtues,

Laws made by him at Antioch.

19. The first which bears Date from this City of *Antioch*, is an Edict lately restored by *Jacobus Gothofred*, out of certain Manuscripts, to the Code of *Theodosius*, for empowering Governours of Provinces to assign inferior Judges, called *Judices Pedanei* for deciding smaller Causes. For better understanding hereof, it will not be amiss to tell the Reader, that there were three sorts of Causes in Reference to the Cognizance of Judges. Some were of an inferior Sort, for determining whereof the Governours of Provinces were compelled to assign Pedaneous Judges, they being thought too much below their own Examination. The second was that Sort which those Governours were bound *Ex Officio* to hear in Person, neither could they assign any other to do it. And the third was such as they might either hear themselves, or appoint others to hear them. But in the time of the Tetrarchy of *Dioclesian*, *Maximian*, *Galerius* and *Constantius*, by whom the *Vicars* of the *Præfeti Prætorio* were constituted, the Power of the Governours of Provinces was much lessened, Necessity being put upon them of hearing all Causes in Person, and the Power of assigning lower Judges utterly taken away, except in certain Cases; as when they were so employed in Business of an higher Nature, that they could not attend; or the Number of Causes was so great that they could not dispatch them. But now by this Edict *Julian* gives them Power to assign other Judges promiscuously in Matters of lesser Moment, and for it this Reason, that there be some Causes wherein it is superfluous for the Governour of the Province his Presence to be expected. Therefore are there three sorts of Times and also of Laws to be distinguished in Reference to the hearing and determining of smaller Matters. The first before the Reign of *Dioclesian*, when these Governours as *Præsidents*, *Proconsuls*, and the like, could not take Cognizance of them, but referred them to other Judges. The second in which they were constrained to hear them themselves alone, which being a very great Burthen to them; the third was introduced by this Law, whereby they had Liberty either to hear them or cause others to do it at their Pleasure. But as for these *Pedaneous* Judges, they were so called because they judged on the Ground, or standing on their Feet (as below the ordinary Governours, or Judges, who sat upon Tribunalls or Judgment-Seats) and they only had the Hearing of inferiour Causes, but

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ut ipse dicebat assidue.

Ex Chrysoſtom
et nos Vale
ſus hinc Julia
ni legem non a
ſi ſs Gramma
tica ac Rhetori
cæ ſed etiam a
Medicinæ pro
feſſores pertine
re ſſe.

L. quædam, v
quæ primæ &
ſecundæ in
terponitur in
Editione poſtr
ma Gothofredi
de Officio Reſſ
ris Provinciæ
lib. 1. Tit. 7
& Lex ult. Ci
juſt. de pedan
eis Judicibus
Dat. 5. Kal.
Aug. Antioch
Mamertino &
Nevitta Coſſ.
A. D. 362.
Lege 2. Cod.
juſt. de ped
eis Judicibus

vid. Notas
tit. 3. lib. 1
Cod. juſt. de
pedaneis Ju

not

not any Jurisdiction. So that our Courts of *Piepoures* something resembled theirs, both in Etymology, having their name also from *Feet*, and in the smallness of Matters therein determined.

20. But *Julian* now lying at *Antioch*, and considering as he himself saith, what Multitudes of People flocked thither, both upon his own account, and of the Magistrates which attended him, thought with himself how he might provide against the Scarcity and Dearness of Provisions thereupon like to follow. But herein he was acted by his Humour of Affectation, and Study of Popularity, which transported him into Courses superfluous; and founded upon no probable Reason, as *Ammianus* affirms, with this Observation, that a Cheapness forced in an inconvenient way is wont to beget Scarcity and Famine. And the Magistrates of the City openly demonstrated to him that the thing could not be effected, yet would he not desist from his Purpose, being of the same Disposition, saith he, as his Brother *Gallus*, though not in point of Cruelty; yet for this Reason, he raged against them, though not by his Sword, by his pen, as Slanderers and contumacious Persons; and other Mischiefs followed hereupon, as we shall see hereafter. But to maintain this Popularity; whatever these Courses were wherein the Citizens and he differed about bringing down the price of Provisions (of which *Ammianus* is silent) he had full Liberty to order his own House and Attendance as he pleased, so as to reduce them to a smaller Number, that less might suffice them. He began with his *Protektores Domestici*, of whom, some ever attending on his Person at Court, and others being allotted to other Quarters in the Provinces, as their Defence required; to the former sort, viz. those that were called *Præfentales*, or in waiting, he commanded by an Edict directed to *Secundus* the *Præfectus Prætorio*, the usual Allowance both for Man and Horse to be given; but ordered the rest away to their several Limits or Stations. Obliging the *Antiochians* in this point, whether they would or not, he took another Course wherein he also thought he gratified them, and that was in filling up their Court, or Senate, by forcing Persons to the Service thereof, a matter wherein he was very troublesome if not tyrannical (as *Ammianus* complains very much of him) that right or wrong, he would subject them to that kind of Slavery. Yet to say Truth, as to this particular relating to *Antioch*, he rather followed the Example of other Princes, than went on his own Head; as his Friend *Zosimus* would have him. The Eminence of this City, as being the Head and Glory of the *East*, had procured it divers Privileges from ancient Emperours; and amongst the rest, that if any one by the Mothers side was descended from those of the *Curia*, he should be obliged to the Services of the said *Curia*. This now *Julian*, by an Edict directed to *Jillian* (his Uncle by his Mother and *Comes* of the *East*) both relates and confirms, but with this Restriction: In case the Father of the Party did not belong to the *Curia* of some other City; for if he did, the Son was obliged unto that; it being a general Rule in this as well as other Cases (Slavery of the Mother excepted) that the Son followed the Condition of the Father: but in Case the Father was not obliged to any *Curia*, but the Grand-Father by the Mother was to this of *Antioch*, the Son was also to be obliged, and that by this special Privilege. So of old there were Privileges granted to the Inhabitants of *Illum*, whence the *Romans* were said to be descended; to those of *Dulphi* the Place of the famed Oracle, as also to the Inhabitants of *Pontus*, by procurement of *Pompey*, that the Mothers Descent should there qualify Persons for Citizens.

Forces Persons to the Service of the Corporation.

And that very rigorously.

21. But yet a little to explain *Ammianus* his meaning concerning his unjust forcing of Persons to these Services, there's another Law Extant concerning this Subject, Dated but six dayes after the former, and directed to *Julian*, not his Uncle, but one who was now *Consularis* of *Phœnicia*; except there be some Errour in the Inscription. By this it appears, how little Equity such could find at his hands, (as he writes of him) whom these Corporations sought to oblige to their Services, though, as to Original, they were utterly strangers to them; that if they were but Inhabitants in those Places, although they were *Decuriones* in other Corporations, yet the Claim, or Petition of the *Curiales* against them should be good; and consequently, a man might be *Decurio* in two places at the same time; in one by reason of his Original, and in the other because of his Habitation. Yet he limits it thus far, that one who had only Lands or Possessions in a Town should not be esteemed an *Incola* or Inhabitant; although this Privilege was granted to some Corporations also that the very having Estates in them should binde to those kind of Services. Again in case they renounced their Habitation before they were named to the Court, they were not constrained to serve, though such renunciation after Nomination was utterly null. And lastly, their Habitation should

Sect. 5. should not subject them to this Charge, if they had borne Arms and been Cap-
 tains in an Expedition, or else with the Title of *Senators* had also some Employ-
 ment belonging to Persons of that Quality. Thus we see part of what *Ammianus* writes of him, in Reference to Corporations, illustrated by the *Code*. Now as for what he is said to have done in the Point of reforming the Laws, in taking off their Ambiguity, and removing those Delays that were found in the Execution of them. As to this Matter we are furnished with another Edict, dated the very same day with this but now mentioned, and therefore thought to have been joyned to it, though it carries with it now another Inscription to *Secundus Sallust* the *Præfæus Prætorio* of the *East*. It had been of old held and observed for Law, that Copartners in Inheritances or any other thing might either sue or be sued altogether, or, though Issue had already been joyned one of them might prosecute or defend himself unto Judgment or final Decision, without the Concurrence or Assistance of the Rest. Now this, in the time of *Constantine*, seemed hard; for otherwise it was generally received, That what concerned All was by All to be transacted: and it was taken for Law, that (a) every Business was to be decided, all being present to whom it belonged. Otherwise the Sentence should only take Effect amongst such as were there, how evident and plain soever the Matter was. But although Sentence was given only for or against, such as were present, yet might those that were absent sustain great Damage thereby; for however erroneous the Sentence was, if the Absent should bring the Matter about again, as concerning themselves, the Exception might lye against them that it was *Res Judicata* an adjudged Case, and possibly those that were absent might be able better to instruct Council to make out something more than the other, which might be of great Moment in the Decision. For these and other Reasons, it seems, *Constantine* the Great had been advised so far to abrogate the old Law in this Point, that if the *Consortes*, as the Law terms them, were in diverse Provinces, or under the Jurisdiction of several Judges, a stop should be put to the Suite, till all that were concerned could be present. "But *Julian* now thought fit to repeal what his Uncle had therein done as giving advantage to those that desired Delay and would not come to Tryal. But whether to this and other Alterations moved alwayes by Reason, or sometimes by his great Hatred to *Chi* and *Kappa* (this we shall tell the meaning of shortly) will perhaps more evidently appear hereafter.

What he did
toward re-
forming the
Laws.

In Law-suites.

In Appeals.

22. Further, to prevent Delays in Suits, by another Law he Commanded all Appeals legally made, to be admitted, and all the Acts concerning the Tryal to be transmitted to the Office at Court, by one of the Officers of the *Vicar* of *Rome* (to whom the Edict is directed) within the space of thirty dayes, that they might be recorded; and this under the Penalty of Ten pounds of Gold, to be levied upon the Office of the said *Vicar*. Now *Constantine* the Great had allowed but twenty dayes for this transmission, but *Julian* thought good to enlarge the time, and herein was followed by other Princes. But as for such as did not Appeal within due time, and that upon pretence of Fear, against the *Præfæts* of the City, the *Pro-consuls*, the *Comes* of the *East*, or *Vicars*, by another Law made afterwards, he commands, that they be utterly barred: for he tells them, That as long as he Reigns no Judge shall dare to deny lawfull Appeal to any that desire it: and in case he do, He gives further Direction for the Relief of the Parties. And where as it was the Custom, that when any Judge, or Governour of a Province, met with such Difficulties in the Deciding of a Cause, that he could not of himself overcome, that then he made Report thereof to the Emperour, and consulted him for Explanation of any Doubt, or removal of such Difficulties in Law, or otherwise; *Julian* now found, that the Judges were wont to suppress or deferr the said Reports. For prevention hereof, he requires *Mamertinus*, the *Præfæus Prætorio*, to Summon them within his District, and let them know, that, Under penalty of Ten pounds of Gold, to be paid by themselves, and Twenty by their Office, they should cause the Report to be transmitted within thirty dayes exprelly. But, forasmuch as those that carry such Reports, might be hindred by some Accident from making such haste as was requisite for fulfilling of this Order, to save harmless the Judge and his Officers, he will have it to be entred in the Register of the Court, what day it was that the Report was delivered to the Messenger. Further, in pursuance of the same Design, of cutting off Delays in Suits, by another Edict he declared, with reason, That after Issue joyned, the *Mandatum*, or Power given to the *Proctor*, was not extinguished by the death of the Party; that there might be no need of beginning again. And in like manner he imposed a Mulct of a pound of Gold upon any

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Quod omnes
tangit ab omni-
bus tractari de-
bet.

(a) Dig. lib.
42. Tit. 1. L.
47.

L. unic. de
Dominio rei
que poscitur
Cod. Th.
lib. 2. Tit. 2.

L. 1. Cod. Just.
de Consortib.
eiusdem litis.
L. 29. de Ap-
pellationibus
& Consultat.
Cod. Th. lib. 11.
Tit. 30.
Abest à Cod.
Just.

Cod. Th. L. 30.
cod. tit. & L. 2.
Cod. Just. de his
qui per metum

etc. No-
bis enim mode-
rantibus Remp.
nullum audebit
Judex Provoca-
tionis perjugi-
um purgantibus
denegare.

L. 3. Cod. Th.
cod. tit. abest
à Cod. Just.

L. 1 de Cogni-
tor. & Procura-
tor. Cod. Th.
lib. 2 Tit. 12.

L. nulla 23.
Cod. Just. de
Procurator.

Sect. 5. any Advocate, that should, after Issue joyned, use a Dilatory Exception, which " A. D. 362.

n matters
relating to
Women.

23. He also amended the Law, or he would be thought so to have done, in some matters relating to Women. Of old time, the Lands and Houses of *Minors*, or those under five and twenty (for, by the Law of the *Romans*, Persons are not of full Age till then) could not be sold or alienated without a Decree in that behalf obtained, if they lay in the Country; and this *Constantine* the Great extended also to such as were within Cities. And for prevention of Mischiefs that arise to such *Minors* from the Fraud or Carelessness of their Guardians, he forbade Moveable things also to be alienated without a Decree, three Cases only excepted; as when things by keeping became worse, or there were Cattel belonging to *Minors*, that were useless; and if a Woman was married, though not twenty five complete, yet he permitted her Goods or Estate to be sold without obtaining a Decree, provided the Consent of her Husband thereunto was had, and that certified by some Instrument or Writing: which is held good Law in *France* at this day. By this Constitution did *Constantine* intend more fully to consult for the Security of *Minors*, than had been provided by the old Law, against the rash and heedless Sales of their Estates made by their Guardians: and herein was his Edict more singular and express, that in those Sales an Instrument was required, whereas ordinarily, in Buying and Selling, no such thing was necessary; and moreover, by this Edict, he gave the Woman remedy against her Husband, in case she received Detriment, yet so as the Sale should be assured to the Purchaser or Buyer. But *Julian*, being vehemently inflamed with a Zeal to the old Laws and Customs, not only relating to Religion but other matters, and burning with greater Hatred, if possible, to *Chi* and *Kappa*, (as some conceive) did, by a new Edict, Abrogate this part of his Uncle's Constitution (calling him both in this, and another, his Uncle *Constantine*) respecting Women, and would have the Old Law to be of force, that the Sale of any *Minor's* Goods whatsoever, whether of Male or Female, without the Authority of a Decree, should be null; giving this reason for it, That it was more absurd for Wives to have their Husbands responsible for such Sales, who possibly should be poor, and not able to make satisfaction, than recover their own from these who had made such illegal Contracts.

24. In another matter relating to Women, he changed also what had been done either by *Constantine* or his Son *Constantinus*. It had been a practice too frequent amongst those of that Sex, for such as were of free Condition, to joyn themselves to Slaves, out of indulgence to their carnal Appetite, and without any respect to their Honour, and ingenuous Condition. For prevention hereof, Order was taken by a *Senatusconsultum*, called *Senatusconsultum Claudianum*, that if, after they had been thrice admonished to forbear the Company of such as were of Servile Condition, they again offended in that kind, they should lose their liberty, be Slaves to the Lords of those of whom they had used the Company, and their Children also remain Slaves to them; according to the Rule in this Case, that if the Mother was a Slave, the Children should also remain in Servitude. Now this Law aimed at the prevention of two sorts of Mischiefs; both of Women, they offending against Modesty and Chastity, aggravated by the circumstance of the Slavery of them with whom they had to do; and also of the Damage the Lords of such Slaves often received thereby; for they might pilfer from their Lords the better to maintain, or gratifie such Wantons, and neglect the Business of their Masters, in spending time to do that of their Mistresses. And this Damage was the greater, by how much the Employment to which the Servants were put, was of greater concernment. For, although Servitude did not, as Logicians say of Quality, receive *magis* or *minus*, but each Slave, in a strict sense, in what Employment soever, was as much in Servitude as another; yet betwixt an *Agent*, *Falsor*, or he that drove the whole Trade of his Master, and a mean Scullion, or some idle Fellow, there was a vast difference, as to the Concernments of their Lords; and therefore she that inveigled such an one, and made him mispend his Master's Time or Money, was guilty of a greater Crime, and deserved more Punishment; neither was there need of warning to be given in a thing of so palpable inconvenience. For those *Agents* or *Falsors*, by them called *Actores*, and *Procuratores*, had often the whole Estates, and Concernments of whole Families in their hands; and thence it came that the Law was very cautious in points relating to them, for the Sake of those that ought them. If a Legacy of a Slave was left to any one in general Terms, this *Actor* or *Agent* must not be understood to have been bequeathed; and in Case of an Injury done

L. 12. Cod.
Just. de Excep-
tionibus seu
Prescript. lib.
8. tit. 36.

L. 3. de Con-
trahenda Emp-
tione Cod. Th.
lib. 3. Tit. 1.
Abel à Cod.
Just. ideo quia
hac l. vetus jus
reducitur, quod
retinere satis
habuit Triboni-
anus. Vide
Goth. in L.

L. 4. Ad S. C.
Claudianum.
Cod.
Th. lib. 4.
Tit. 9.
Abel à Cod.
Just.

Partus sequitur
ventrem.

Vide Com.

Sect. 5. to a Master in the hurting of his Slaves, distinction was made by the Law betwixt such an one, and others of meaner Abilities or Employments. In like manner did the Emperour *Constantine*, or his Son, think fit to make a Difference, and as appears from *Julian's* Edict, ordain, either that less Warning, or none at all, might be given to a Woman that accompanied with Slaves of this Nature. "But *Julian* by another Edict repeals all Constitutions made to this Purpose, and requires that the "Denuntiatio be made to a Woman so joyned to any of servile Condition whatsoever, if Slaves to private Persons. Further, as *Constantine* thought fit to be more rigorous in this point so in another to be more moderate, and abate the Severity of former Laws towards Women, in what more nearly concerned himself, his own Profit and Revenue; though as to the Interest of Subjects he was severe. For in case any Woman accompanied with a Slave belonging to his Treasury, or his Lands, he ordained in a large Edict most full of Clemency (wherein he cast several Burthens from off the Shoulders of his Subjects, both in Reference to the Laws and Debts owing to him) that such should not lose her Freedom; yet that some sort of Punishment there might be, He declared, that though her Children should not be Slaves, yet they should not enjoy so full and ample a Liberty as other Persons, but be in a middle State betwixt Slavery and Freedom; as were those who were called *Latini*, or *Spurious*; being as it were free amongst Slaves, and Slaves amongst Freemen, and the Lords of their Fathers should have a Right of Patronage over them, as Masters were wont to have over those that had been enfranchised, on which here we must not insist. But this *Julian* thinks fit also, by the same Edict, to repeal; so great was his Love to the old Law, or Hatred to something else.

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L. 3. ad S.
Clandianum.
Idi Comm.About the
Scriniarii,And other
matters relating
to *Africk*.

25. Again, *Constantinus* had appointed the *Scriniarii* of the four *Scrinia* of the Palace by twenty years Service to be freed from Obligation to the Charges of Corporations: but *Julian*, though cross also in the Matter of Corporations to the other Extreme, will have this Term contracted to the Space of Fifteen, by a Law which *Arcadius* the Emperour afterward confirmed. Other Laws he made for the Ease of the People; and in this kind also is remarkable a large Constitution for the Benefit of those of *Africk*, who were harassed with heavy Impositions. The first part of it hath Relation to the High-ways, which being repaired after several Methods proved a great Grievance to some sort of men, and were for want of a certain and settled Course far worse maintained. In some Places, the Officers called *Magistri Pavorum* were wont to force those that were Inhabitants in their Villages to worke at them: In others, certain Parts, prescribed within certain Bounds, were allotted to be kept in Repair, to those whose Lands lay near to them: and this Course *Julian* approves of as most equal, being founded upon ancient Custom, a thing of which he was so enamoured. There was another great Abuse in the *Cursus Publicus*, of which the Officers named *Mancipes*, plaid many Pranks with the Provincials; being those who managed the Course, that none should exceed what the Laws allowed in the Use of it, who took Care that Horses and other sorts of Beasts should not be wanting to the Course, nor Fodder and Provender to the Cattel. Endeavours were used formerly by sundry Laws to keep them from oppressing the Subject; and now for the time to come, he ordains that they be under the Command of the *Proconsul* of *Africk*. Moreover it was the Custom for great men, and Governours of Provinces, both to burthen the Course it self, and miserably to afflict the Countrey by pressing of Carriages to convey Marbles for the sumptuous Building or Ornament of their Houses, though not seated upon the *Roman* Cawfyes or publick Streets, but at good Distances, which he condemns and forbids as a most audacious Practice; and prohibits the Removal of Pillars or Statues of what Materials soever made, that Places may not be deprived of their Ornaments. But the best comes last, or that wherewith the Provincials of *Africk* were most pleased. This was, a Pardon or Remission of all Dues to the Treasury: yet with the Exception of what was wont to be paid in Gold or Silver. It was the Custom for Princes to pass such Acts of Grace for weighty Reasons; as, if Lands had been deserted; if overrun by Enemies, or been too much burthened and exhausted by publick Payments. And though *Julian* was sparing in granting such Indulgence, as what was wont to serve for Easement to the Rich, and little to the Relief of the Poor; yet herein he also imitated his Predecessors, but with Limitation, both as to the Things and Places indulged; for, his Grants of this Nature were commonly partial as to the Dues behind, and granted only to particular Countries or Places, which yet other Princes also sometimes practised. Some other Laws he made here at *Antioch*, for the filling of Corporations, to which Work he was with so much Af-

L. 1 de Proxi-
mis, Comitibus
Dispositionum
C. Cod. Th.
lib. 6. tit. 22.
Abest à Cod.
Just.Dat. 7. Kal.
Martii
A. D. 362.
Abest à Cod.
Just.Acc. 15. Kal.
April. Kar-
thag. Juliano
& Sallustio
Cels. A. D. 362.
L. 2. de Itine-
muniendo Cos.
Th. lib. 15.
Tit. 3.L. 15. de C.
in Publico Co-
Tb. Abest à
Cod. Just.L. 7. de e-
dificiis priva-
tis Cod. Juli-
lib. 6. Tit. 1L. 1. de In-
dulgentiis Dis-
torum Cod. 1
lib. 11. Tit. 22
Abest à Cod.
Just. l. c. 1.
temporaria.L. 53. de Di-
curionibus Cos.
fecta- Tb.

Secl. 5. festation* inclined, directed them to nominate the Sons of the *Decuriones*, and " A. D. such amongst the ordinary sort as had sufficient Estates; for want whereof, he " 362. nulls the Choice of some that were lately elected. And for better Encouragement " of all, who to comply with his Humour, had joyned themselves to them, he de- " L. 54. cod. Tit. 4. clares that they shall not answer for the failings of such as were made Recci- " L. providendum est 23. Cod. Just. 4. vers of the publick Revenue amongst the *Decuriones* before their Admission, but " cod. lit. only those to whose Oversight or Negligence it was to be imputed, that such un- " fitting Persons were intrusted with an Employment of that Consequence.

He resolves
for the Persian
War whatever
is said against
it.

26. Thus have we illustrated out of the Laws themselves, so far as concerns this Year, what *Ammianus* writes concerning *Julian's* Endeavours in this Kind, and that in Reference to civil Matters while he staid at *Antioch*. Concerning his Complaint of his Rigor towards the Professors of Christian Religion, both in that he mentions and other Particulars much more will in due Time and Place God willing, be produced also out of his Laws, and his other Writings. Now to take up the Story of that Author where we left it, while he staid at *Antioch*, *Gaudentius* the *Notary*, who had been sent into *Africk*, to secure that Country against him, by *Constantinus*, as also *Julian* who had been *Vicar*, and was esteemed too much a Favourer of the same Party, were apprehended and put to Death, as was *Artemius* who had been *Dux* of *Aegypt*, upon Accusations of the Citizens of *Alexandria*; but how justly, and what thereupon followed about *George* the Bishop must be examined in a more proper Place. But now began he to be much inflamed with a Desire of prosecuting the *Persian* War, considering how that Nation had for sixty years last past miserably harassed the Eastern Provinces, and defeated several Armies that were sent to restrain them, which raised up a Desire in him of Revenge and this was farther heightened by an earnest Ambition to grace his former Achievements with the glorious Sirname of *Parthicus*. There wanted not those, who perceiving what vast Designs he had in his Head, and what great Preparations were requisite for bringing them to pass, much blamed his Ambition, and taxed it as dangerous and absurd, to cast the Empire into such Difficulties and Dangers, only for the Humour of one Man, that he might domineer over more Animals; and that murmured to the Appetite of one single Mortal, so many Persons must be sacrificed; which however *Ammianus* blames in them as spoken out of Malice and Sloth, yet is agreeable to the Sentiments of any who bear a Regard to the Preservation of Mankind; for though some Wars be necessary, and the Duty of a Prince, yet boundless Ambition and Desire of Conquest are Passions, which humane Nature cannot but abhor, as producing Effects contrary to its best Preservers, which are Peace and Union; and strangely unequal so as to gratifie and tickle the Fancy of one small Creature (considered in himself) with a conceit of it's greatness, multitudes of men or a great Part of the world must be disturbed and brought to Misery. These Persons though they durst not speak themselves, yet by suggesting divers Objections to others who they knew would tell him, endeavoured to divert him from his Purpose, urging this especially, that if he would not find Bounds to his Heat this way, he would miscarry as the luxuriant Corn is wont, through immoderate Prosperity. But all their Endeavours proved unsuccessful, or they barked in vain (against a man *Ammianus* tells us, who was not to be moved by secret Injuries) even as *Pigmies* or *Thiodamas* of *Lindus*, that Clown, against *Hercules*.

And in order
to Divinations
is extravagant
in Sacrifices.

27. For he slackned not at all either of his Zeal for the prosecution of the War, or his Preparations in order to it: But, our Historian confesses, he shed too much Blood, and too often upon the Altars, in order thereunto, sometimes sacrificing hundreds of Bulls, and innumerable Doves of other Beasts, and white Birds, all he could compass both by Sea and Land: inasmuch, that (notwithstanding all his Labours for the Discipline of his Army, so much talked of, amongst other things) almost every Souldier, and that almost every day, glutting himself with meat, and drinking with as much greediness and Excess, was carried up- *Adso ut in dies* on the shoulders of such as casually met him, from the Temple wherein they *pene singulos* Feasted, through the Streets, to his Quarters; and especially the *Petulantes* and *Celte*, who, having come along with him out of the West, were grown confident *milites canis* above measure. The Rites and Ceremonies of this his Religion, were increased *distentione sa-* so beyond all Moderation, and consequently the Expense thereof to Sums unusual *gina cistitan-* and burthensome; and every man that would make profession of the Art of *is incultus,* Divination, how skilful or ignorant soever, without any Bounds or Rules pre- *potiusque acidi-* scribed, was permitted to seek for Answers, and consult the Entrails, which some- *tate Corrupti* times afforded Predictions of all sorts; and these were every where sought af- *humis imposi-* ter, and that all manner of wayes, with affected variety. And, out of his great *ti transeuntium* Curio-

Señ. 5. Curiosity, he had a Project in his Head, of opening the *Castalian Fountain*, so A. D. 362.
 Famed for its Power in Fortune-telling, which had been long ago choked up with a great Heap of Stones, by commandment of *Adrian* the Emperour, who, having found that the Empire was predicted to him by virtue thereof, was unwilling that any other should have from it the same Encouragement: and he commanded the Dead Bodies, buried thereabout, to be removed, according to the Rite whereby the *Athenians* formerly had purged *Delos*. But, while he pleased himself with the Exercise of those Superstitious Vanities, an Accident there was, which relating to the same, gave him no small Disturbance. On the two and twentieth of *October*, the Spacious Temple of *Apollo* at *Daphne*, the Suburb of *Antioch*, built by * *Antiochus Epiphanes*, wherein he placed an Image as big as that of *Jupiter Olympius*, took fire, and was suddenly burnt; with which Disaster being extraordinarily moved, he caused more severe Inquisition than was usual to be made about it, and commanded the greater Church at *Antioch* to be shut up, imagining the Christians had set it on fire, out of Envy to see it incompassed with stately Galleries, or a *Peristylum*. But, privately, *Ammianus* tells us, it was reported to have been burnt upon occasion that *Asclepiades*, a Philosopher, being come to visit *Julian*, and having ever about him a little Silver Image of the *Carthaginian* Goddess, termed by them *Dea Cælestis*, placed this Image at the feet of the Statue, and lighting up Wax Candles, according to the Custome, then departed. From these Candles some sparks caught hold of some old and combustible things thereabout, in the dead time of the Night, when there were none to prevent it; and by degrees the Fire seized and consumed that lofty Fabrick.

Potius à Seleuco Nicatoris m ex Libanio ostendit l'altiss.
Πρωτον μὲν ὁ λίσσια τῶν ἐν λακῶν, ταῖς δὲ τῶν ἀδελφῶν αἰσίων τόλμας ἀφανισθέν.
Hic Asclepiades Cynica Stoica Philosophus ad Constantii Comitatum venerat tempore Magnentiani belli.

28. And this the more easily it might do, by occasion of the great Drought which now was so remarkable, that, though the Winter-Solstice was at hand, yet several Rivolets and Fountains also failed of Water, wherewith they had formerly abounded. Though the Season of the Year would not permit it long to hold, it was accompanied with a terrible Earthquake, wherewith, on the second of *December*, the remaining part of *Nicomedia* was overturned, and with it no small portion of the City of *Nice*. Though those Accidents perplexed *Julian*, yet his mind was no less intent upon the War, and Matters conducing to it; but, amongst such serious things, he, to no purpose, employed himself in bringing down the price of Vendible Commodities at *Antioch*, as we have before related, out of an Affection to Popularity, though such improper Constraint of Cheapness, be wont to cause great Scarcity, as *Ammianus* observes. Those of the Corporation demonstrated it could not be done, yet was he pertinacious in his Purpose, being of the Humour of *Gallus* his Brother, except in the point of Blood; and raging against them as Slanderers and contumacious Persons, he composed (this year following) an Invektive, which he called *Mesopogon*, *Beard-Hater*, or the *Antiochian*, wherein he maliciously ripped up the Faults and Defects of the Citizens, adding to Truth very many things. So the Historian, but yet an *Antiochian* himself censures the Invektive; which being still extant amongst others of his Workes, we must do both him and others that Right, as to take Notice of it. "He terms it a Poem in Prose, and for as much as it was neither fit for him nor any others to return ill to them by whom they had been injured, therewith he pretends not to play upon such, but himself the Poet; for as much as no Law forbids one to write either Commendations or Dispraises of his own Person. To commend himself he tells you he could not, but if to discommend he was able infinitely to do it, and he will begin with his Face. Whereas to this Face, Nature her self had not been over kind, he through a certain Morose Humour had added to it a long Beard, as it were to punish it, and this for no other Fault, but because Nature had been no kinder to it. For this Reason he suffered Lice to run in it as Deer do in a Park; neither, for Fear of choaking by Haires, could he either eat or drink plentifully; for as for what concerned kissing, he did not on that much insist, knowing that his Beard would not suffer his Lips to be joyned to others more delicious. And whereas they, the *Antiochians*, had said that Ropes were to be made of it, he was very willing they should do it, if the roughness of his Hairs would not hurt their tender and delicate Hands. But lest any should think him to be moved by all these Reproaches (for herein he recites what they said of him) he would render an Account why he went so like a Goat; whereas he could shave himself and be as smooth as beautiful Boyes or Women, on whom Nature her self had bestowed much Beauty and Comeliness. For they in their Age imitated their Chil-

He and the Citizens of *Antioch* falling out.

He composes his *Mesopogon* or Invektive against them.

The Substance of it.

Ex aquarum copia Caricæ Annone effusa est, in qua quidem penuria Julianus 13000 modiorum tritici Antiochenisibus largitus est, ut ipse & Libani us afferunt.

Τὸ δὲ ἄσμα περὶ μὲν λέγει πεποίηται τῶν τῶν ἀνέχοντων τῶν φθιμένων, ὥστε ἐν λόχῳ τῶν θηρίων.

Sect. 5. Children, and according to their delicate manner of living, and perhaps for the " A. D. Simplicity of their manners, they shaved all off, and shewed themselves to be men, " 362. not as he did, by their Cheeks, but from their Foreheads.

29. But not content with the length of his Beard, his Head was to boot out of " Order, the Hair whereof he seldom cut; and as seldom he pared the Nayles of " his Fingers, which were most commonly also black with Ink. And if they " would needs know a Secret, his Breast was moreover rough with Hair, as " bristly as were those of Lyons the King of Beasts; and if he had any Mole about " him, he would tell them of it. But further he had to say, that he had not " only such a kind of Body, but also he led a very austere Life, and very trou- " blefom. The Theatre out of his great Folly, he frequented not; neither suf- " fered a Play to be acted at Court, but at the Beginning of the Year; (such was " the Stupidity of his Mind, (like a poor Husbandman that paid his Rent to some " hard Landlord) and when he did that, he gave but little heed to what was " acted; for he had no Possessions, though he had the Name of a great King " throughout the World, not so much as a *Præfett* or Captain who command- " ed *Comedians* or Chariot-Drivers. All which, though they were signes suffici- " ent of his morose Humour, yet he had one thing to tell them that was more " new and wonderful. He hated the *Circensian* Games, as much as Debtors did " Courts of Justice, therefore seldom came he at them but in the Dayes that " were holy to his Gods, neither then did he there spend the whole day, as his " Cousin, Uncle, and Brother were wont to do; but was glad to be gone after he had seen the sixth Course ran, and that with little Delight, nay on the con- " trary with much Trouble and Uneasiness. So much it sufficed to speak of " external things, and yet in further Drollery he tells them, that this was nothing " to the Injuries he did them over and besides, for as to his Domestick Life, he " slept little by Night; and the small rest he took was upon a Pallet, and in eat- " ing he did not satise even Hunger, which way of Living made him Morose, " and of an Humour quite contrary to the Effeminacy of *Antioch*. Yet would " not he have them think, (the Poem he mixeth with serious Matter) that he " did it to torment them; for a grievous and foolish Mistake, (you must know) " and that from a very Boy, had induced him to wage War with his Belly. Here- " upon it was that he would not suffer it to be satiated with Meat, and therefore very " rarely did he vomit, to his Remembrance but once since he was made *Cæsar*, and " that not from any Repletion, but it came by Chance. Upon this hung a Tale, " which he would tell them, not out of Conceit that it would be pleasant to " them, but wonderfully suited his Condition, and the Scene of this Comedy lay " at his dear *Lutetia* or *Paris*, while there he abode in his Winter-Quarters. This " Town he tells them is a River-Island of no great Capacity. On both sides " they passed to it by wooden Bridges; and as for the River it did not in- " crease nor decrease; but as it was in Summer, in Winter it was found in the " very same Condition. Water is afforded very pleasant and clear to the Eye " of the Drinker, for it being an Island, there upon Necessity the Inhabitants " were to get Water for the most part. The Winter was very gentle, by rea- " son of the warmth of the Ocean (as was supposed) which was distant from it " but nine hundred Furlongs, so that a mild Vapor thence seemed to be dif- " fused, for the Water of the Sea is much more warm than the sweet, or that " which ariseth out of Springs, or is taken from Rivers. Hereupon it was that " the best sort of Vines there grew, and through their Industry they also had " great Quantity of Figgs, which in Winter they covered with Wheat-Straw, or such " like Stuff, as they were wont to defend Trees against the Weather.

A description
of Paris.

30. But when he lay there, the Winter was more sharp than ordinary, and " the Frost laid as it were, a Bridge, over the River, of Ice much resembling " the *Phrygian* Stone. There was he more stubborn and humourfome than ever " before; for he would not suffer a Fire to be made in his Chamber, ac- " cording to the Custom of the Place, though it was very convenient for it: " and thus it came to pass, through his Stubborness, and, to speak truly, *Inhu- " manity* toward himself, out of a Resolution to use himself to that Air, so that " though it grew colder and colder, he would not permit his Servants to make " any Fire, for Fear he should stir the Moisture that was in the Walls; only " he let them bring a little Charcoal or some Wood thoroughly kindled, with " which, though very small was the Quantity, a Damp was raised from the " Walls, which filled his Head with Vapours so as to make him drousie; and " indeed he was, in great Fear he should be suffocated. Thereupon he was taken "

Sect. 5. the one that of *Christ*, and the other that of *Constantius*. To this he replies " *A. D.*
 that in one thing only *Constantius* had done them an Injury, that when he " *362.*
 made him *Cæsar* he had not put him to Death. And as for other Matters, " *362.*
 he wishes that to them only of all *Roman* Subjects the Gods would give ma-
 ny *Constantii*, or rather to be made lyable to the Rapines of his Favorites. "
 In Reference to what had passed betwixt them two, *Constantius* was his Kins-
 man and his Friend, and after he chose to be his Enemy, and the Gods had "
 decided the Quarrel very favourably on his Side, he was a more faithful Friend "
 to him than before they fell out he could have expected to find him. And "
 therefore he demands why they should think he was ill pleased to hear him "
 well spoken of, when as he was angry with any one that discommended him. "
 He perceives they had chosen *Christ* for their Tutelary Deity, in the room of "
Jupiter Daphneus and *Calliope*: gives those that professed his Religion the Ti-
 tle of *Galileans* (in which he prides himself and thinks he meets with them "
 in all his Writings) most impiously calls it the Sect of Impiety, and adds that "
 the greatest part of the People, nay indeed all, imbracing that Sect was an-
 gry with him for owning the Religion of their Fore-fathers, and adhering "
 to it. That the Rich were displeased, for being prohibited the Sale of their "
 Commodities at too dear a Rate, and all in General out of Respect to the "
 Dancers and Stageplayers; not for that he had wholly deprived them of the "
 Use of such, but regarded them less than the Frogs that croaked in the "
 Fenns.

32. But he comforts himself with a Story of *Cato*, who had been formerly "
 offended with the Idleness and Luxury of the *Antiochians*, and exclaimed against "
 the Place as a miserable City upon that Account. Now he tells them, like a "
 pleasant Droll, that they must not wonder at him if he had the Misfortune, be- "
 ing of a more rough Humour than *Cato* himself, and one that exceeded him as "
 much in blunt Boldness as the *Galls* did the *Romans*. For *Cato* being born at "
Rome, converse with his own Fellow Citizens all his Life; whereas he, as "
 soon as ever he could write man, was sent away to the *Galls*, *Germans* and "
 into the *Hercynian* Forrest, where he spent his Time as it were in hunting and "
 waging War with wild Beasts; and thence contracted an Humour which very "
 ill befitted a Courtier; could not flatter, but was only skilled in living plain- "
 ly and freely with all men. Before that he had such Education as was fit for "
 Childhood, he had been trained up in the Books of *Plato* and *Aristotle*, at such "
 years as were more proper for a delicious kind of Life, and he insists very "
 much upon it to declare how his Master laboured to show him the Vanity as "
 off of all Pleasure in general, so of the Sports and Plays which were usu- "
 ally seen on the Theatre. When a full man grown and preferred, he had "
 lived according to his own Way and Rule with most fierce and Warlike "
 Nations who knew *Venus* and *Bacchus* no further, than for the Sake of Marria-
 ge and Procreation; And drinking only so much Wine as was agreeable, and "
 might lawfully be used; where no Obscenity was practised on Theatres, nor "
 Mimicks trode upon the Stage. But these Nations (the *Galls* he means) so "
 loved him for his agreeable Disposition, that not only they took up Arms in "
 his Behalf; but gave him Money, and often forced him to receive it, and what "
 was best of all, they were obedient to him in all things. Thence, saith he, it "
 came to pass, that my Name with great Glory and Renown sounded in "
 your Ears, and they all proclaimed me to be a Valiant, Prudent and Just Per- "
 son, who knew not only how to governe in War, but in Peace also; and "
 moreover they said: I was easie of Access and Gentle. But you, the *Antiochi-* "
ans have treated me in a quite contrary Manner. You say I have overturned "
 the World, whereas I know nothing one way or other subverted by me: then, "
 that Ropes may be made of my Beard; and lastly, that I have denounced War "
 against *Chi* and wish I may do it against *Kappa* too. To what he acted against "
Christianity, he opposeth what they had practised against *Paganisme*, and re- "
 lates some Passages, which, in the Place proper to them, must not be omitted. In "
 the latter End of his Poem, from drolling he descends to down right and most ear- "
 nest Expostulation, and shews himself most grievously nettled with the stinging Li- "
 bels that were cast abroad.

33. Yet this he tells them they might freely do, for he would neither cause "
 them to be killed beaten, nor imprisoned for so doing. But to continue his Ex- "
 postulation, he further urges the Mildness and Modesty both of himself and his "
 most familiar Officers. Neither he nor they had medled with their Lands or "

S. Ct. 5.

Estates, nor been at all taken with those they esteemed very fine things amongst them; they had neither abused their Magistrates, nor suffered them to abuse the Citizens, but to the City been the Authors of Immunity and great Plenty and thereby afforded Leisure even to such as had Libelled against them. No Silver nor Gold had been exacted, nor Tributes increased, but besides Arrears, a fifth part of the usual Customs and Imposts had been remitted; for, not thinking it sufficient to be indulgent this way himself, he had got an Officer that managed such Matters, the most moderate and abstinent of all others, though they abused him for the Hair of his Head, as well as they did his Master for his Beard. Moreover, he had five more, that were near him, fully as virtuous as he, whereof the one was his Uncle of the same Name with himself, who had, with great Justice and Moderation, formerly governed them of *Antioch*, and, though with no great Prudence, ordered the Affairs of the City. By such Courses as those he thought he might sufficiently approve himself, and seem lovely enough to their Eyes; but seeing at length the Neglect of his Hair, his Hatred to the *Specacula*, his Endeavour to preserve Gravity and Decorum in Temples, his Care to maintain Justice in Courts, and his Desire thence to banish Avarice, had so much set them against him, he would very willingly be gone from them; for as much as he could scarcely expect that with Age and Continuance his Humour would be sweetned. And here he tells them a Fable of the Kite, who having once had a Voice like other Birds, would not therewith be contented, but must needs endeavour to neigh like an Horse, and by endeavouring after the latter, lost the former Faculty, and became inferiour to all his winged Brethren; which case would be his; for, endeavouring to be courtly, if he should miss of his *Courtship* he might also possibly fail of down right dealing.

34. And now he turns down right indeed, conjuring them by his Immortal Gods, by *Jove* the *President* of the *Forum*, and Keeper of the City, to tell him what Cause they had to show themselves so ingrateful and bitter against him. He demands what Injury either publicly or privately he had done them, that not otherwise able to hurt him they daily so reviled him in the *Forum*, whom though it was in his Power sufficiently to hurt, in a larger way of retaliation, yet he chose to return them their own, in their own way of *Invective*, though formerly he had been so far from any such thing that he had studied their Commendation, so far as stood with the Prudence of an Emperour. He had laboured to deserve well of all; though it was impossible to please every individual man, or the City it self in every individual thing. For, to such as paid Customs, all Duties of that kind could not be remitted; nor all given, to those Officers that were employed to receive them; but he had kept a Mean, so as to require what was necessary for the Publick Expense, and also been very bountiful in remitting of Tributes where he saw convenient. Out of his great Kindness and desire to deserve well of them, though they were the last of Cities that sent to congratulate him, yet had he forgiven them far more Money than to any other; and, besides, had increased the number of their *Senators* or *Decuriones* to two hundred; and not spared his own Officers, but given up those that were employed in his Revenue, to undergo the Burthens of their Corporation. But whereas out of his Design to make their Corporation greater and richer, he had endeavoured to fill their Court with able men, they had taken another Course, which indeed better suited with an ill tempered City and their own universal Demeanour: and he instances in a pittyful beggarly Fellow they had chosen, but such an one, as through the great Prudence of them, the City Governours, made merchandize for them, of the miserable ordinary People. Now because he would not suffer them thus sillily and knavishly to manage their Elections, he had lost utterly all thanks for his former Favours, and they were angry with him. But yet this was not the thing that rendred them so implacable; there was another Matter of greater Concernment. When he came first to Town the ordinary sort being oppressed by the Rich, received him with Clamours against the Dearness of Victuals. The day following he discoursed with some of the better sort and endeavoured to perswade them, that omitting their universal Exactions they would consult the Good of their own People and Strangers both, which they promised should be done. Hereupon he made no more stir about it; but for three Months expected the Performance of their Promise; but then perceiving the Complaint of the Poor not to have been without Reason, and that indeed there

was

A. D.

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Sect. 5. was not such Scarcity of Provisions as was pretended, but the Avarice of the Rich was the greatest Cause of the Mischief, he set a moderate Price upon Commodities by a publick Edict. A. D. 362.

35. And whereas the Grain of which there was any real Want, was Wheat, caused by the great Drought of the preceding year, he sent and procured a Supply from *Chalcis*, *Hierapolis* and other neighbouring Cities, to the Value of four thousand Measures; which being spent, he furnished them first with five, then with seven, and afterward with ten thousand *Modii*, out of his own Granaries which had been sent him from *Ægypt*, and took for every fifteen Measures but the Rate they were wont to pay for ten, viz. one *Aureus*. Hereupon ensued Plenty of Bread; not only for those in the Town, but Country too, who flocked to buy it, with which the richer sort were so ill pleased that their Trade failing them at home, they sold their Corn into Foreign Parts, and hence must necessarily follow a Famine in Winter, and the same Price must be paid for five as now were for fifteen Measures. However he thought he had done very well; and further, as should appear from the latter End of his Invektive, which is something difficult to be understood, as he had by his Care made Plenty of Wheat, so by an Edict he had lessened the Prices of other Commodities, as Wine, Oyl, and other things; whereupon the rich Merchant who traffiqued in such Matters, kept them up and would not sell them; which again caused the Emperour to be rail'd on, though he had done it for Relief of the Poor, and for the Ease of those Strangers which flocked to the City upon his Account, as also of the Magistrates and Judges that attended him. But now he tells the *Antiochians* that since those Persons were returned home, and all the City had bandied against him, some out of Hatred, and others whom he had provided for, out of Ingratitude, he would commit all to Fate, and get him gone to some other People; not upbraiding them with what had hapned ten years before, when in a Tumult the People had offered Violence to the Magistrate. Yet he cannot but again ask the Question, for what Reason they were so violently bent against him? If it was because he had fed them at his own house, which hitherto had not been indulged to any City, and that so plentifully and magnificently? If it was because he had increased the Number of their Corporation? Or for that he had punished such Thieves as he had found amongst them, according to their Merits? There were three thousand Acres of Lands, it seems of that sort called *Caduca*, or for want of Heirs fallen to him; and these Grounds being, as they said Barren, they had begged of him. When they had got them, the richer sort jostled out the Poor, and kept them to their own Use, which he having understood, took them from those that had no Right to them, and appropriated the best of them to those common Expenses of the City which were of greatest Burthen and Concernment. And now, saith he, you that keep Horses all the year, have the Common of almost three thousand Acres partly through the Prudence and Diligence of mine Uncle *Julian* and partly by the Bounty of myself, who having in this Manner chastised Thieves and Chatees, may very well be said by you to overturn the World; for Lenity and Clemency toward such as these, believe me, do cause the Naughtiness of men to increase. Wherefore now I come to what I would be at. I my self am Author of all these Mischiefs, in being bountiful to ingrateful Persons. And therefore all is to be attributed to mine own Folly, and not your Freedom. And therefore for the time to come, I will endeavour to be more prudent and cautious in my Carriage toward you: and I pray the Gods will requite you suitably, for the Honour and Good Will, which I have publickly found at your hands.

*Hic Juliani
Præfetti Præ-
filius, Bassina
frater antea
Præfektus Æ-
gypti fuerat,
Postea Comes
Orientis, Ma-
mertino & Ni-
vittæ Coss. 177.
de l'alestum in
Ann. ad p. 227.
Ammiani.*

36. Thus doth *Julian* end in earnest, however he began in Jest, his bitter but most elegant Invektive. The Pluck the *Antiochians* gave him by the Beard, did so much twitch him, that it made the Tears stand in his Eyes, however he thought to put it off with Laughter. The Substance of the whole Invektive we have given, though the Length thereof be somewhat improper, because it gives Light to the Laws and History of this Prince, and possibly discovers something of his Humour, which this Passage betwixt him and the *Antiochians*, if you will believe a Native of this Place, *Ammianus*, seems well to make out, in that he saith he was willful and not to be diverted from his Purpose, being like to his Brother *Gallus*, although not bloody. That he did not indulge his Passion in Killing, Beating or Imprisoning his Subjects (as he tells them he would not) for libelling against him, and reviling him in the *Forum*, he is really, nay much to be commended for his Clemency; for the

Laws

Sect. 5. Laws was very severe in such kind of Offences, though committed against private men. But as to the Merits of the Cause, and Controverſie betwixt him and the City, although his deſerving well of them as to ſeveral Indulgen-
 ces ought to be acknowledged, yet an indifferent Judge is rather to hear others, than either of the Parties concerned. The great Matter of Offence and Enmity betwixt them was that of the Proviſions, or his bringing down the Price of Commodities, which, however he ſaith he did it out of a good Intention, yet *Ammianus* tells us it was out of Love to Popularity; and that unſeaſonable or forced Cheapneſs, is often the Cauſe of great Want: As alſo that the Corporation openly ſhewed to him, that the thing could not be effected; and yet he perſevered in his Humour. Another matter about which they differed was the Filling of the Court; and though they might be in the Error as to that particular Perſon he mentions, yet if we give Credit to the ſame *Ammianus*, who was alſo his no ſmall Friend, we muſt believe him in this point to have been much to blame, and guilty of the greateſt Error (in civil Matters) committed during his Government; for however he boaſts of his filling up the Number of the *Decuriones* to two hundred, this Writer tells us, that right or wrong he compelled Perſons to theſe Services, and therefore herein he overdid, and they that underſtood them and were upon the Place, and had been exerciſed themſelves in them, were the ableſt to diſtinguiſh of fit Perſons. So ſtood the Caſe, and the Cauſe of the miſunderſtanding; as to the Effects thereof, *viz.* Invectives, Libels and Rail- ing on both ſides, there is no Excuse to be made, if we conſult the Equity as well as the Rigour of the Laws, as we ſaid, on their part. But that his Affe- ctation made him ridiculous is evident enough from the Teſtimonies of his Friends: his Affe ctation as to Philoſophy and Eloquence was vehement, and this cauſed him both to wear ſo great a Beard (though an Emperour and a profeſſed Phi- loſopher vaſtly differed) to pride himſelf in it, and write this Invective as an Apology for it; for conſidering his Humour, this gratified his Affe ctation and this way of Revenge pleaſed him ten times more than Cruelty could have done; for there did not lye his Temptation at this time. As for what he returns upon them; which is their Luxury, and that the Hatred they bore him proceeded from the Averſeneſs they had to his Virtue, or the Strictneſs of his Life; if ſuch it was, as he ſets it forth, the Love and Reſpect they bore to *Chi* and *Kappa* will not bear them out in it; the Principles of *Chriſtian* Religion more than of any other, (more than thoſe of his Superſtition) contradicting all Exceſs in any kind. But *Ammianus* an *Antiochian* gives us an heavier Cenſure of his *Miſopogon*, (yet poſſibly ſomething concerned for his Country, though an Eye-witneſs it may eaſily be granted of all thoſe Paſſages) that reckoning up with malicious minde the Faults of the City, He added many things to the Truth. However, leſt we ſhould be ſuſpected of this other Extreme, in not relating the beſt, he ſayeth for his own Advantage, we have choſen to trefpaſs in being tedious upon this Sub-
 ject.

35. Notwithſtanding, he ſtill found many things facetiouſly ſaid againſt him, which though he was conſtrained to diſſemble, inwardly he ſwelled with An- ger. For they laught at him as a *Cercops*, a kind of Dwarf, ſtretching out his Shoulders, thruſting forth his Goats Beard, and yet ſtratting like ſome Brother of *Otus* and *Ephialtes*, the Tallneſs of whom *Homer* vaſtly extolleth. They termed him *Viſimarins* in Reference to the Multitudes of his Sacrifices; and that deſervedly; for out of Oſtentation he prided himſelf in carrying Oblations or ſuch like things, as the Priests uſed to do, attended on by ſil- ly Women. Though he inwardly fretted for being twitted for this Vanity, yet he concealed his Indignation ſo far as to finiſh the Solemnities. On a cer- tain Feſtival he aſcended the Woody and ſteep Mountain *Cafius*, whereon at the ſecond Cocks Crow, the Sun was to be ſeen; and there, as he was ſacrificing to *Jupiter*, he eſpied a Man lying proſtrate on the Ground, who begged his Life and Pardon at his Hands. Upon Enquiry he found it was one *Theudotus* of *Hie- rapolis*, who having amongſt the *Honorati*, or thoſe who had borne Civil Offices, brought *Constantius* on his way from the City, baſely flattered him, and with feigned Teares and Groans beſought him, as one who without any Doubt would prove Victorious, to ſend them the Head of *Julian* that ingrateful Traytor, in the ſame manner as he remembered that of *Magnentius* to have been carried a- bout in Triumph. To this Requeſt, he answered that he had heard from many how guilty he had been as to this Matter, but bade him go in ſafety to his own Houſe, and live free from all Fear, through the Clemency of the Prince, who

who as a prudent Man, had determin'd and was very ready to diminish the number of his Enemies and increase that of his Friends. Having finish'd his Devotions and departed thence, he received Letters from the *Præfēt* of *Aegypt* wherein was signified the joyful News, that *Apis* the Ox having been sought for with great Labour and Diligence, was found; which the Inhabitants of the Country reputed a lucky Sign of a fruitful Year, and diverse other Advantages. But the present year thus ended, or that of the *Consulship* of *Mamertinus* and *Nectus*. In that which followed, he took the Title the fourth time, and for his Colleague assumed *Sallust* the *Præfētus Prætorio* of *Gall*, which had not been known of a long time that the Emperour should be joyned with a meer Subject, viz. since the *Consulship* of *Dioclesian*, and *Aristobulus*, as *Ammianus* writes, but by a Mistake. And this his fourth *Consulship*, he resolv'd to render famous to Posterity by Acts of no small Moment. Besides his Preparations for the *Persian* War, he forgot not his Enemies *Chi* and *Kappa*, though in a more clandestine and cunning way as yet he acted against the Followers of the Former. If he could restore the Temple of *Hierusalem*, the old Services and Sacrifices of the Religion once practis'd there, it would be a great means and Argument against the Growth and Truth of Christianity, which was suppos'd to succeed it, and arise upon the Ruines thereof. This he was resolv'd to do whatever it cost him, and committed the Care of rebuilding the Temple there, to *Alypius* an *Antiochian*, who had formerly commanded here in *Britain*. And *Alypius* earnestly prosecuted the Work, and was therein assisted by the Governour of that Province; but (it is *Ammianus* that tells you) dreadful Balls of Fire broke out from the Ground where the Foundations were laid, and consuming the Works made the Place inaccessible, and so the Element making vigorous Resistance, the Design miscarried. Of which more hereafter.

Julian enters his fourth Consulship with all the respect.

endeavours in vain to rebuild the temple at hierusalem.

likes several promotions.

He refuses Aid offered him against the Persians.

What he did before he left Antioch.

38. Now was he complemented from the *Senate* of *Rome*, by Persons of considerable Nobility and Merit, whom he accordingly rewarded. *Apronianus* he preferred to be *Præfēt* of that City, *Othavianus* to be *Proconsul* of *Africk*: and *Vernustus* he made *Vicar* of *Spain*, as also *Rufinus Arabius* he promoted to be *Comes* of the *East*, in the room of his Uncle *Julian* lately deceased. But being so wonderfully superstitious he was now terrified by divers unlucky Signs, as he and his esteemed them. *Felix*, you must know, the *Comes Largitionum* suddenly died of Bleeding, and him *Julian*, *Comes* of the *Fast*, not long after followed. Now the Common People looking upon the Titles of the Emperour, on Purpose or unwittingly, or it's not material how, read and spake thus: *Julianus*, *Felix*, *Augustus*; for amongst the ordinary Titles *Felix* came in and usually preceded *Augustus* immediately; so that it was taken as ominous, that he who was *Augustus* should be reckon'd with *Felix*, and with *Julian* too, both who were dead. Besides, when he entred the Temple of the *Genius*, one of the elder Priests suddenly fell down dead, which his Flatterers near him interpreted to portend the Death of the elder *Consul*, but it rather signified that *Consul* who excelled in Power more than Age, as the Event showed: moreover *Constantinople* was shaken with an Earthquake, and the Books of *Sybylla* at *Rome* forbade the Emperour to go beyond his own Territories this year, all which were accounted unlucky, and used as Arguments to dissuade him from the Expedition; but in Vain. As he could not be utterly discouraged by those Passages so neither receive any greater Encouragement from the Offers now made him of Assistance by many Nations; the Ambassadors of whom he sent back with this Answer, that it did not become the *Roman* Empire to thrive by the Accession of Foreign Aid; but to assist its Friends and Allies in their Necessity. Only *Arfaces*, King of *Armenia*, he commanded with a sufficient Power to attend his Motions, and expect such Orders as he should shortly send him. Then did he, ere Spring was advanced to the Height, send the Command for his Forces to pass *Euphrates*; which accordingly they did, and being quartered about as Convenience directed expected the coming of their Emperour from *Antioch*.

39. Before we fetch him thence, we must enquire what he did farther there the Beginning of this year, supposing him employed in more Affairs than what related to the Imposition of his *Misopogon*. But several Matters therein contained, whether said by the *Antiochian* or himself, we find still explained, limited or confirmed by other Laws he made before his Departure. Though he was so Indulgent to that City, as he saith himself in Relation to Tributes remitted to them, and Grounds given them; yet it concerned him to have a Care of the publick Revenue, and that this he had, we find by two Laws made for Prevention of Abuses in this kind; for when Grounds were sold; sometimes the Vendor or Giver

A. D.

263.

A. D. 361.

Juliano A. D.

Sallustio

Consul

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Sect. 5. ver would take upon him to discharge the publick Duties belonging to them, and afterward they being not to be found, the Treasury was thereby defrauded. But it being reasonable, that all Burthens should follow the Soile it self, and the Ground be answerable for all Dues arising from it, he ordains, That those in present Possession be forced to pay them. Other old Customes he laboured to reduce, which relating to that sort of War, made by him against *Chi* and *Kappa*, will in a fit Place be fully considered. But one thing we meet with wherein he seems to have acted against his own Principles, and general Course of the Laws, and that in the matter of Corporations too. So studious was he, that he was rather unjust as to constraining of men to undergo their Employments, and he had a great Aversion to the *Agentes in Rebus*, and especially the *Curiosi* taken out of their Body, so that (as much as in him lay) he took away their very Name and Being. Yet is there an Edict of his, Published at *Berytus* in the Moneth of February of this year, wherein he excuses those *Agentes* from such Charges, if they had served but three years, whereas his immediate Predecessor required seventy years for such Immunity; and his immediate Successor no fewer than ten; and in this Case, the Privileges of the *Militia*, *Palatina* and *Armata* were wont to be equal; so that it's thought that there's some Error in the Text of the Law, as perhaps the Word signifying ten more, hath been omitted. But he gives the same Privilege to such of them as had received their Mission, or been discharged in this his fourth *Consulship*. And by another Edict grants Immunity from those Services of the Courts of Corporations to such as had thirteen Children living, so as they might plead it if they were called on to serve, or if they were at present under the Burthen, they might obtain an honourable Discharge from them, yet so as still to retain the Advantages accruing from them. That we may discharge our selves of the Laws made by him respecting the State properly, and fit here to be remembred; another Constitution he made, if not at this Place, about this time, and that for the Benefit of Cities and Bodies politick, in which he appointed certain Offices, called in Greek, *Zygostates* to decide all Controversies happening now in Bargaines and Sales about Gold Coin, which from the Dayes of *Constantine* had begun to be scarcer than formerly, to be clipped, and otherwise much abused. In this Law as well as several others, *Gothofred* observes that he shows much of that Greek Pedantry with which he was but justly upbraided. Another there is yet of his making, but without the Addition of Day or *Consuls*, as these we have mentioned; whereby he declares that the Sons of *Libertini*, or of such who had once been Slaves, but after were manumitted, might obtain the Dignity of the *Senatorian* Order.

40. When he was about to leave *Antioch*, he committed the Jurisdiction of *Syria*, to one *Alexander* of *Hierapolis*, a turbulent and cruel Man; whom he confessed not to deserve the Place, but that such a kind of Judge was proper for the covetous and contumelious *Antiochians*. When he departed, he was brought on his way by a mixt Multitude of the Citizens, who wished him a prosperous Journey, and a glorious Return, and prayed him for the time to come that he would be more mild and gentle to them, but he being still angry, for the Jeers and Affronts he had received, gave them a sharp Answer, and affirmed that he would never see them more, as it came to pass. For he said he would return by a nearer way, and Winter at *Tarsus* in *Cilicia*, and accordingly had written to *Nemoris* the President to get all things ready for him; and Winter and Summer there he did, his Body being privately buried in a Suburb of that City, as he had himself ordained, leaving *Antioch*, on the fifth of *March*, to come to *Hierapolis*, where, at his Entry, fifty Souldiers were killed by the Fall of some Buildings, besides many hurt. Here he continued three dayes; and in this time wrote a letter to *Likavianus* the *Sophist* and *Questor*; wherein, after he had given him an Account of his Travel and Entertainment in his Journey, he tells them in short the State of his Military and Civil Affairs, for as to the Bulk of them it was larger (he saith) than to be comprehended in three Epistles of the fullest size. In the first place he had sent to the *Saracens*, and willed them to come if they pleased and joyn with him, having also employed most vigilant Spies to see that none should give them Intelligence of his Motions. He addes, that he had decided Controversies amongst his Souldiers, with the greatest Lenity and Equity imaginable, as he perswaded himself; that he had provided himself of excellent Horses and Mules: rendezvouz'd his Army, had laden his Vessels upon the River with Corn, or rather with Bisket and Vinegar: of all which to describe the manner how they were done, and what Speeches were made about them, he knew how tedious it would be, and it was

5. troublefome to relate in how many Letters and Books he had ordered all things “ *A. D.*
(which happened well to him) to be Recorded, and carried about with him. Ha- *363.*
ving here, as both he and others tell us, united his Forces, he march'd with all
speed for *Mefopotamia*, that he might prevent the fame of his coming (which courfe
he ever observed) and fet upon the *Affyrians* unawares. Having paffed *Euphrates*
with his own Army, and the Auxiliary * *Scythians*, by a Bridge made of Boats, he * *Inter hos Go-*
came to *Batna*, a Municipal Town of *Ofdroëna*, where he received another ill Omen, *chorum meminif*
(for of this name we find two places mentioned in this Expedition, one on this fide, *Zofimus.*
and the other beyond) fifty Soldiers more being overwhelmed with a Stack of
Straw, while they were carelefly pulling at it. Departing forrowful from this place,
he hafted to *Carha*, an antient Town, famous for the overthrow of *Craffus* and the
Roman Army, being the Frontier toward *Affyria*, whence lay two Roads for *Persia*,
one on the left hand by *Adiabene* and the River *Tygris*, and another on the right,
by *Affyria* and *Euphrates*. Here making fome ftay to furnifh the Army with Necessa-
ries, he facrificed to the Moon, according to the Custom of the Country, (which
was very much at her Moonfhips Devotion) and here, he is faid, before the Altar,
no body being near, secretly to have delivered his Purple Military Coat to *Proco-*
pins, his Kinsman, with order, courageoufly to feize upon the Empire, upon Intelli-
gence that he had mifcarried amongft the *Parthians*.

41. Being now troubled with ill Dreams, he prefaged fome Mifchief to be at
hand, and both he and his Wizards declared, that the Day following, which was
the nineteenth of *March*, was to be regarded. Yet, as afterward was difcovered,
the matter lay afar off; for, (as *Ammianus* obferves) this very fame night was the
Temple of *Apollo Palatinus* burnt at *Rome*, of which *Apronianus* was then *Præfæ*;
and, if great help had not been at hand, the Verfes of *Sibylla Cumana* had perifhed
in the Flames. While he was bufied in ordering the March of his Army, in which
he muftered fixty thoufand men and five, and regulating the matters relating to
Provisions, News was brought poft hafte, that a Party of the Enemies Horfe had
broken into the Pale of the Empire, and made Depredations; wherewith being
much moved, he purfued the Defign he had before in his Head of committing a Par-
ty of thirty thoufand (faith *Ammianus*, but eighteen faith *Zofimus*) choice men *ἐκλεκτοὺς*
to *Procopius*; and with him joyning *Sebastian* a *Comes*, who had been *Dux* of *Ægypt*, *καὶ μαρτίου,*
he commanded them to keep a ftrict Watch within *Tigris*, left any fudden and un- *folium ait Zo-*
expected Accident fhould happen; as often had done before; and if poffible to *simus.*
joyn *Arfaces*, and with him, by the way of *Corduena* and *Moxoena*, having wafte
Chilocomus that fruitful Tract of *Media*, and other Parts, to meet him, if they could,
in *Affyria*. He pretended then, that he would pafs the *Tigris*, and for the Dif-
guife, had caufed Preparations to be made for him on that Road; but took the
Right hand, and having fleep quietly that Night, in the Morning called for his
Horfe. They brought him one that was named *Babylonius*, who being ftruck with
a Blow from an Engine, and not enduring the Pain, tumbled himfelf and fpoiled
the Furniture, which was richly fet out with Gold and Gemms. *Julian* herewith
was very much pleafed, as taking it for a good Omen, and cryed out with the Ap-
plaufe of thofe that attended him, that *Babylon was fallen to the Ground, defpoiled*
of it's Ornaments. Here he thought it worth his time to ftay a little and confirm
the Omen by Sacrifice; which having endeavoured, he came to a Caftle called *Da-*
vana, where the River *Belias* taking his Rife, afterward powreth himfelf into *Eu-*
phrates. Having here refrefhed his men, the day after he proceeded as far as *Calli-*
nisus, a Fort very ftrong and Opportune for Commerce, where, on the fix and twen-
tieth day of the Moneth, he celebrated the Annual Feaft of the Mother of the Gods,
as it was wont to be obferv'd at *Rome*; and took his Eafe the Night following
with much Courage and Gayety. The day following he marched by the Rivers
fide, and in a certain Station pitched his Tent; and here he was faluted by the
petty Princes of the *Saracens* upon their Knees, who prefented him with a gol-
den Crown, as Lord not only of their People, but of the World; and he gave
them a kind Reception, intending to ferve himfelf of them in the War. And be-
fore they were difmiffed, a Fleet like that of *Xerxes* prefented it felf to his View,
under Conduct of *Constantianus* a Tribune, and *Lucillianus* a *Comes*, which feemed to
overspread the broad River *Euphrates*. In it were a thoufand Veffels of Burthen la-
den with Provisions, Arms and Engines, befides fifty others fitted for Fight, and as
many wherewith to make Bridges, if need fhould require.

42. About this time, he afcended the Tribunal and by a Speech fitted to the Oc-
cafion, animated his Souldiers to the War, to which he added the more powerful
Motive, of a Congiary or Donative, of an hundred and thirty *Nomifmata* of Sil-
Zofimus lib. 3.

Sect. 5. ver to every man. The Foot he committed to the leading of *Victor*; and the Horse to the Conduct of *Hormisdas* a *Persian*, whom the King his Brother having very injuriously treated, he had fled to *Constantine*, and after several ample Testimonies of his Fidelity, been preferred to great Commands; but yet with him he thought fit to joyn *Arintheus*. Having accepted the Aid which the *Saracens* willingly offered, he marched for *Cercusum* (in the Scripture *Carchemish*) which he entred in the Beginning of *April*. This was now a very strong and neat Town, the Walls whereof were strengthened by the Rivers *Abora* and *Euphrates*, which circled it in the Fashion of an Island: for formerly being little and weak, *Dioclesian* had fortified it with Walls and Turrets at such time, as he ordained more inward Limits upon the Confines, to prevent the IncurSIONS of the *Persians*, who had lately done very great Damage to the Provinces. While *Julian* here lay and imployed himself in passing his Army over *Avora*, he received sad Letters from *Sallust* the *Præfect* of *Gall*, who intreated him thereby to suspend his Expedition against the *Parthians*; nay most earnestly besought him, that he would not so preposterously thrust himself upon certain Destruction, the Divine Powers not being yet pacified. But he neglected this wholesome Advice, and pressed forward rather with more Confidence; for that *Ammianus* tells us, no humane Power or Virtue ever yet could merit, that what Fate had ordained, should not come to pass; and being got over, he caused the Bridge to be broken down, that his men might perceive all Hope of Flight to be cut off. He passed on (as *Ammianus*, who himself was present in this Expedition, and therefore is our best and sufficient Guide in the History of it, writes) and came to a Place called *Zaita*, which signifieth an Olive-Tree, where they saw the *Tumulus* or Hill raised in Memory of the Emperour *Gordian*, to whom being consecrated, out of his innate Piety, as this Writer words it, he made a Parentation; and so proceeded to *Dura* a Town depopulated. Here beholding afar off as he thought, a Band of Men, he made an Alt, and standing in a Muse to think how he should order his Matters, a Lion of a vast Bigness presented himself to the Army, and by it was quickly dispatched. Hereat he conceived greater Hope and Courage, though the Event shewed it was without sufficient Ground. Our Writer tells you, that indeed, by this Accident the Death of a King was forth shewn, but of which, it was utterly uncertain. That the Oracles themselves tell such Cases were doubtful; he declares; as in the matter of *Cræsus*, the *Athenians* when they fought against the *Persians*, and of *Pyrrhus* in his War against the *Romans*. The *Hetruscan* *Aruuspices* produced their Books, and thence shewed such a Token to be fatal to him that invaded the Territories of others, though upon never so just Grounds, but were run down by the Philosophers, who had the greater Authority with him, and were peremptory in those things they did not understand. They urged indeed that when *Maximian*, while yet *Cæsar*, was about to ingage with *Narses* King of *Persia*, a Lion in like Manner and a great Boar appeared, and were killed; and he went away with the Victory; but the Case differed; for Destruction was portended to (marke) him that unjustly made the Invasion; which was *Narses* who first invaded *Armenia*, subject at that time to the *Romans*.

43. The day following, being the seventh day of *April*, by intervention of a Cloud, hapned great Darknes, Thunder and Lightning, and therewith a Souldier named *Jovian*, was struck dead, as he was leading two Horses from watering. This confirmed the Wizards in their former Opinion, who, by Books of Thunder, shewed, that Thunder it self was to be taken for a Councillor, and when a man, of so great a Name, was so killed with Horses, which are the great Helps for carrying on War, it evidently signified that the Place and Country where such a thing hapened, was, as dangerous, to be quitted. On the contrary the Philosophers affirmed that the Lightning signified nothing at all; but was a fierce Vapour by some Force or other thrust down from the Clouds; or if any thing was meant by it, it must be *Brightness* and *Glory*, signified thereby as accruing to the Emperour from the Enterprize he had undertaken, flame of it's own Nature ever tending upward. The Profession of the Philosophers and their Opinion most suiting *Julian's* Humour, he easily closed with them therein, and now made an Oration to the Army, furnished with several ancient Stories of the greatest Commanders who had atchieved as well against the *Persians* as others, by their Valour and Affection to their Country, especially through the good Will and Resolution of their Souldiers, very great things; which now by their Assistance he was resolved to imitate in this Affair; wherein he had this present Advantage of Justice on his side, that as they were prompted to what they did, by martial Glory; he was compelled to repair those

Losses

Sallust writes to him, to dissuade him from the *Parthian* War.

He is amused by several Accidents.

By a Speech he encourages his Men.

Sect. 5. Losses, and revenge those Injuries which the *Roman* Provinces had of late years sustained. With his Discourse they were so animat^d, that considering both his former Services in *Gall*, and his present Alacrity to endure all hardship, even as far as the Condition of a private Souldier required, they embraced his Advice with all chearfulness, and resolv^d to obey his Commands to the utmost. The undaunted Resolution of Emperour and Army thus manifest^d and mutually applauded, he entred the *Affyrian* Borders, where fearing to fall into some Ambush, he drew his men into foursquare Bodies, and appointed fifteen hundred as a Forlorn; to march both before and on both sides; to give warning upon all Occasions. He himself led the main Body of Foot, being the Strength of the Army. On the right Hand he commanded certain Legions to march by the River *Euphrates*, under Conduct of *Nevita*. The left Wing he committed, with some Troops of Horse, to *Arintheus* and *Hormisdas*, to be led through the Plains and Marishes: And the Rere was commanded by *Dagalaiphus*, *Victor*, and *Secundinus*, the *Dux* of *Osjdruena*. To strike a greater Terror into the Enemy, he enlarged his Ranks, and caus^d his Army to appear much more numerous than it was; so that the Front was well nigh distant from the Rere, the Space often Miles, in which Art both of enlarging and contracting an Army when the Stratagem required, *Pyrrhus* King of *Epyrus* was most excellent. And the Baggage he plac^d so within the Wings, that all Danger by sudden Incur^sions, might be prevented. As for his Fleet, he order^d it to keep as near as could be, that the Army and it might afford mutual Assistance and Protection to each other.

Being entred
Affyria, in
manner of his
March.


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44. Proceeding after this manner for three dayes, they approach^d *Dura*, a desolate City upon the River; whence journeying, after four dayes more, they attack^d a Fort call^d *Anathan*, stand^g in an Illet in *Euphrates*; and storm^d it meere^{ly} by Language; for those within were perswaded to yield, which they did by driving out before them an Oxe with a Garland on his Head, with them the usual Signal of Peace. The Emperour caus^d the Fort to be burnt. *Pusens* the Governour was reward^d with the Place of a Tribune, and afterward was prefer^d to be *Dux* of *Aegypt*; the rest were sent away with their Moveables to *Chalcis*, a City of *Syria*. Amongst them was found a *Roman* Souldier, who, when *Maximian* made an Inroad into these Countries, had been left behind by reason of Sicknes^s, then a very young man. But afterwards he took several Wives, according to the Custom of the Place, and now very Aged, with a Numerous Issue, to his great joy was carried homewards; affirming with the testimony of several Hearers, that he had foretold, how near to an hundred years old, he should at length be buried in the *Roman* Territories. After this, the Scouts of the *Saracens* brought some Prisoners to the Emperour, who, glad at the sight, sent them back again upon the like Errand. The day following much Damage happen^d to the Army by a furious Tempest, and shortly after, by the breaking out of the River, which, whether it proceed^d from some Natural Cause, or the Design of the Enemy, was unce^{tain}. The further they pass^d, the greater danger they being to meet with, the Emperour in Person rod^e before, to see that all was clear; and sometimes cam^e behind, as there was occasion, and some Forts they took in their pass^{age}, and others refus^d to submit, about which he thought it not worth his labour to spend much time; but he command^d the fruitful Country to be wait^d. One Town they took, call^d *Ozogardana*, which, upon their approach, the Inhabitants had forsaken, and here was a Tribunal of *Trajan* still to be seen. Admiring that all this while he should meet with no opposition, his Wonder now present^{ly} ceas^d; for, having sent out *Hormisdas*, who best knew the Country, to make a discovery how matters stood, the *Surenas* (for this, *Zosimus* tell us, was the Name of Magistracy, not of a man) the highest in Power next to the King, and *Malechus Podosaces*, the *Philarchus* of those *Saracens* call^d *Affanite*, watch^d the opportunity of intrapp^{ing} him; and had done it, but that a branch of the River, swoln above the usual proportion, hind^{er}d their pass^{age}. Being discover^d, a Party turn^d head against them, and, after some skirmish^{ing}, forc^d them to retire.

Αρχὴς δὲ τῶν
τοῦ Παδάλι,
καὶ ὁνομα.

45. The Souldiers, encourag^d with this Success, march^d more chearfully to a Place call^d *Macepracta*, where were seen the Ruins of Walls, formerly of great length, and built for the Defence of *Affyria* from Foreign Invasions. And here, the River being divid^d, a branch of it running up into the more inward Tracts lying about *Babylon*, the Army with some difficulty got over; the Enemy making opposi^{tion} on the farther Bank, till divert^d by *Victor*, whom *Julian* caus^d to cross it for that purpose. This Difficulty conquer^d, they met with a greater, at a City (call^d by *Ammianus*, *Pyrisabora*, by *Zosimus* *Bersabora*) very strongly fortifi^d by Na-

Sect. 5.  ture, and the Resolution of the Inhabitants. Here no Language would do the work, for, all the Arguments of *Hormisdas* they rejected, reviling him as a Traytor to his Country. Neither would downright Force prevail; though the Emperour in Person ventured to break open a Gate, with as much Danger and Courage, as *Ammianus* had read *Scipio Aemilianus* to have undergone and practised at the taking of *Carthage*; till at last he gave order for that sort of Engine to be mounted, which, having the name of *Helopolis*, obtained, by the great Execution it did, the Title of *Poliorcestes* for *Demetrius*. Affrighted at the sight of so great a Machine, which both by its height and strength, they perceived would surmount their strongest Turrets, they cried out for pardon, and obtained it, being in number two thousand and five hundred; for the rest, apprehending the storm, had removed themselves into a safer Place by Water. The taking of it, after two dayes Siege, being a City, and the greatest in *Affyria*, next *Ctesiphon*, brought Repute, and was very seasonable; for there was found plenty of Victuals and Arms, which being taken away, Fire was then set to it. The following day, as the Emperour sate at Meat, word was brought him that the *Surenas* had fallen upon three Companies of the Scouts, and having slain some few, amongst whom, one Tribune, had taken a Banner or Ensign. Hereupon, in a great rage, he arose; went thither with his Guard, and having easily constrained the Enemy to retire, cashiered the other two Tribunes as Cowards; and ten of the Souldiers that had fled, he caused to be put to death, according to the antient Martial Law in such cases practised. Then did he ascend the Tribunal, and gave thanks to the Army for what was already well performed, exhorting them to be constant in the like Atchievements, and promised them for a Donative an hundred *Nummi* a man. But they disdained the Sum, as contemptible, and began to grow tumultuous; which perceiving, he shewed both his Indignation and Gravity, in another Speech, to this purpose:

His Army,
growing mu-
tinous,

He reduceth
by a Speech.

46. Consider, saith he, that the *Persians* abound with all things, and therefore “ the Wealth of this Nation will sufficiently enrich us if we unite in Affection, and “ valiantly demean our selves. Believe me, the *Roman* Commonwealth, from vastly “ rich, is become exceeding poor, by the means of those, who to increase their own “ private Wealth, have instructed Princes, how, by Gold, to purchase Ease and Qui- “ et from the *Barbarians*; and so to return home. The Treasury is emptied, the Ci- “ ties exhausted, and the Provinces harassed. I have neither any Treasure of mine “ own, nor Kindred to supply me, though Nobly descended; only a Breast that’s “ void of all fear; neither shall an Emperour, who placeth all that’s Excellent in the “ Ornament of the Mind, be ashamed to own honest Poverty. For the *Fabritii*, “ poor in Estate, managed very great Wars, and were rich in Glory. We shall also “ abound with all good things, if you carry your selves courageously and modestly, “ under the Conduct of God and my self, who shall Govern you with as great cir- “ cumpection, as Humane Reason will allow of; but if you will be Mutinous, pro- “ ceed in your way, I, for my part, as becomes an Emperour, having alone finished “ a course of so great things incumbent on me, will dye standing, and contemning “ that Life which some pitiful Fever, however, may take from me: Or, truly, I can “ quit my Place: For I have not so lived, but I can easily return to a Private Con- “ dition: And, I may boast, that here are present most excellent Commanders, of “ perfect Experience and Skill in all matters relating to War. With this mild, yet resolute Speech, the Souldiers were satisfied for the time, and, being encouraged by peccation of better things, promised Obedience, and, with universal consent, extolled his Authority and greatness of Spirit to the Skies. And he animated them daily by these kinds of Sayings; *So let me subdue the Persians. So let me repair the tottering Condition of the Roman State*; in like manner as *Trajan* was wont to swear, *So let me see once Dacia brought into the form of a Province*; *so let me lay Bridges over Ister and Euphrates*. Thence, after a march of fourteen miles, they came to a low ground, which, the *Persians* having notice they would pass, drowned, by opening the Sluces, so that with great difficulty they got over, by many little Bridges, Bladders, and light Boats. Then, being way-laid by the Enemy, who discharged many showers of Arrows upon the Flanks, the Army came near a Place where *Euphrates* divides it self into many Rivolets; and here they found a City forsaken of its Inhabitants the *Jews*, who would not trust to the weakness of the Walls, and the Souldiers out of Anger burnt it. Arriving at length at *Maiozamalcha*, a great City, fortified by strong Walls; before it they encamped; and the Emperour, knowing the Enemies Horse to be accounted terrible in these Champian Countreys, took all care possible to prevent its sudden Incurfions.

sect. 5. 47. This done, with a few *Velites* in his Company, he went on Foot to view the Town and thereby cast himself into extreme Danger; for, ten *Persians*, armed at all Points, issuing out at a Postern, fell on him and his Company, and two of them, knowing him by his Habit, made it their Business to dispatch him; but he received the Blows upon his Target, ran one of them into the side, and the other was killed by his Followers. Of the rest some were wounded, and all fled; after which he led back his Attendants with Spoiles of him he had slain, being a golden Collar; and herein *Ammianus* compares him with *Torquatus* and *Corvinus*, those ancient Captains. Having passed his men over the River, and fortified his Camp by a double Trench for fear of the *Persian* Horse, he besieged the Place; for that he thought it dangerous to leave so considerable Enemies, as those that held it, at his Back. While he made Preparations for the Siege, the *Surenas* fell upon such Carriage-Beasts as were left beyond the River, but was repulsed by some Cohorts, with the Loss of a few men. Now also were two Cities standing in Islands deserted by their Inhabitants; whereof some flying to *Ctesiphon*, and others getting away in little Boats, many of them were intercepted by the *Roman* Horse, which was ever exercised in foraging, and got good Booty, while the Foot was busie at the Siege. The Emperour drew a double Line about the Town, but the Siege proved troublesome, both by reason of the natural Strength of the Place, and the firm Resolution of the Besieged. No attempt would prevail that was known and open, not the utmost Resolution of the Legions, not the force of battering Engines, although they broke down a Tower, and together with it fell part of the Wall. At length the Design was effected by Mines, through which the Souldiers got into the City, and, the Governour with some few others excepted, all found within were put to the Sword. But as for himself, *Julian* touched none of the Booty, only accepted of a dumb Boy which could shew Tricks, and of three golden Coins. As for the Women, which if any where, were beautiful in *Persia*, he would not so much as see one of them, imitating therein the Continnence of *Alexander* the Great, and *Africanus*, who declined such Temptations; lest being invincible, as to Labours and Performances of great things, they should have been conquered by Pleasure, and pittiful momentary Satisfactions.

48. This City being burnt, and such as lay hid in Caves and Holes, wherewith these Tracts abounded, on Purpose to do Mischief, being either choaked with Smoak which the Souldiers on purpose fired in the Mouths of them, or killed when by it forced out; by many Bridges laid over the little Rivulets, they passed further, and came to two Forts, where *Victor* leading the forlorn was opposed by the King of *Persia's* Son, who with many Noblemen and a power of Souldiers endeavoured to hinder his crossing the River. Yet upon Sight of the Body of the Army, they retired, and so the *Romans* arrived at that pleasant Country, so delightful for its Groves and all sorts of Fruits, but chiefly acceptable to them in this Respect, that it presented them with an House of the Kings, built after the *Roman* Fashion, which upon that very Account they left untouched. Here was also a Forest abounding with Lyons, Bears, Boares, and other sorts of Beasts, wild to Extremity, and kept for the Kings Pleasure when he pleased to hunt, which now became good Game to the Souldiers. Not far distant stood *Coche*, or *Silencia*, where the Army resting two Dayes, the Emperour as he went abroad to view the Place espied the Carcasses of the Relations of him that betrayed *Pyrisabora* nailed to the Gallows: And here *Nabdates*, the Governour, who with eighty more had been taken at the Surrender of *Maiozamalcha*, was burnt alive; for that, having at the Beginning of the Siege promised to deliver up, or betray, as *Ammianus* terms it, the City, he had most earnestly defended it, and having notwithstanding obtained Pardon beyond all he could hope for, now was grown so insolent as to affront *Hormisdas* with all sorts of Indignities. Proceeding a little farther they lost some of their Baggage, carriage-Beasts and those that attended them, by a party which surprized the Rear while the Front was amused by another Body, that gave it a Diversion another way. *Julian* hereat fretting in vain, and now drawing nigh to the Regions of *Ctesiphon*, while he went to view another strong Fort he found in his Passage, again cast himself into extreme Hazard, wherewith being very angry, as if Fortune ought to have exempted him from usual, nay courted Dangers, he resolved to be revenged, and for that Purpose laid Siege to the Place, which they within as vigorously defended, trusting to the extraordinary Strength of the Fort; it being esteemed by them inaccessible; and not doubting of speedy Succour from the King, who now lay at no great Distance from them.

Sect. 5.

49. His Choler was still further moved by another sudden Onset made by the *Persians*, who took and killed several of his Men, and the rest apprehending that greater Numbers of them were arrived than indeed there were, their Courage began to fail them, and they were slow to Action. But afterward, by their Prince his Endeavours, and their own Disdain being again excited, they forced those in, which had made a Sally at this time, when their Friends beyond the Water gave the Onset, and had cut off a great Part of a *Cohort* with the *Tribune*. But the Emperour enraged at this Disgrace, took away the Horses from the rest of the *Cohort*, whom he accused of coldly receiving the Enemy; and caused them to serve as Foot Souldiers; which done, he burnt still with a vehement Desire of taking the Fort, for the Danger he underwent of his Person, and for that Purpose still thrust himself forward into more Difficulties, fighting at the head of his men, encouraging them by his Example, and awing them by his Presence and Observation. By these and other Means he obtained his Desire; and having burnt the Fort, it was necessary now to give some Refreshment to his Army; which that it might receive without danger or disturbance, he strongly fortified his Camp, to prevent any sudden IncurSIONS, or secret Attempts that might be made from *Ctesiphon*. After this Refreshment, they came to a Fosse-Dike, or Artificial River, which had the Name of *Naarmalcha* (the River of Kings) being digged first by order of the Emperour *Trajan*, and afterward scowred up by *Severus*, for the passage of Vessels out of *Euphrates* into *Tigris*. But now it was dry, and the *Persians*, to prevent any such Design, had choaked it up with Stones; which *Julian* having found, thought fit to cleanse, and restore it to its former Use; and this, by the Industry of his men, he effected, so as through this Cutt, his Fleet passed out of *Euphrates* into the other River, and the Army having crossed it on Bridges, proceeded in its March toward *Cocke*, through a Countrey that even ravished it with the beauty of what it afforded, and in the middle presented them with an House of the King's Retirement, in a shady * Place, the Rooms of which were furnished with Landskips, and therein represented their manner of Hunting; for the *Persians* used no other Pictures than what concerned War, or represented fighting and killing, in some or other sort.

A. D.

263.

He grows rash
in his Actions.

The Persian
Army faceth
him,

And is put to
flight.

50. Hitherto his Attempts had well succeeded (though sometimes he suffered his calm Soul to be ruffled by very little Blasts of not ever constant Fortune) which caused him now to despise all Difficulties whatsoever, and he often proceeded to Acts which bordered upon Temerity. He commanded eight hundred men to be put aboard the strongest Vessels of Burthen, and dividing his Fleet into three parts; with one he ordered *Victor* to pass the River, and to seize on the farther Bank in the Night-time; which all the Officers concluded was a desperate Attempt, and unanimously besought him, to desist, but in vain: Being violently then bent upon it, five Vessels adventured over, and when they approached the shoar, had cast into them Firebrands, and other combustible matter, wherewith they, and all within them had perished, if the Emperour had not caused them to be relieved with the whole Fleet; which done, after a most violent Contest, the Souldiers landed, and kept their Post on the further Bank. Now did the whole Force of the *Persians* present it self to view, and in the first place, their *Cataphraſti*, all arm'd cap à pie, with their barded Horses, which were followed by the Foot, remarkable for their oval and crooked Targets, made of sticks, that were covered with raw Hides: and in the Rere came up the Elephants, terrible to behold. The Emperour made Head against them with his Foot, placed, according to the Order described by *Homer*, betwixt the Troops; lest, being first exposed in the Front, they might be borne down, and discourage all behind them, or being placed in the Rere, they might have opportunity to run away; he himself, with those lightly armed, was ready to fly up and down, and succour all, as need should require. But there was no very great need of his labour in this kind, though he spared it not; for the *Romans*, having once broken the Front of their Enemies, drove them back with all violence imaginable; and, notwithstanding the contrary Endeavours of *Pigranes*, the *Surenas*, and *Narses*, their most able Captains, pursued them as far as the Walls of *Ctesiphon*, which also they had entred with them, had not *Victor*, with Hands lift up to Heaven, and as earnest words as he could utter, being now himself wounded in the Shoulder, besought them to forbear; lest being got in, they should have been slaughtered by the numerous Enemy. Here *Amianus* falling into a fit of Boasting, compares the Performance of this day with those of *Hector*, or the Antient *Greeks*, in the *Persian War*. The Souldier, all bloody as he was, made haste to the Emperour's Pavilion, and there was not sparing in congratulatory Expressions, for that he had truly so demeaned himself in the Action, that it could not be discerned whether he was a Captain or an ordinary Souldier, and had fought

* Z. simus per
padis: Guir-
danov appellat.
A Park.

Quod cum acris
metu territi
duces concordâ
precatu fieri
prohiberi ten-
erant, &c.

Aliam ejus res
causam Rufus
Filius, & Li-
banus producit
nempe, intrasse
miles nisi major
prædæ occa-
sio fuisset quam
cura victoriæ

Sect. 5. fought with that Success, that about two thousand and five hundred *Persians* being left dead upon the Place, only seventy of his men had miscarried. He, in Return of their kindness, called such by their Names as he had observed to have signalized their Valour; and, according to their deserts, conferred on them *Naval, Civick,* and *Castrensi* Garlands.

A. D. 363.
Sex autem milia Persarum in hoc prælio occubuisse prodit Libanius. Complures ho- stias Marti præbat ulcori

He resolves never more to sacrifice to Mars.

He is ambitious and insolent.

He burns his Fleet.

51. Now abundantly concluding with himself, that Fate would still continue propitious to him, he prepared for his God *Mars* many Sacrifices. But for all this, so skittish Fortune would have it, that of ten most beautiful Bulls on which was to be conferred this grinning Honour, before ever they came to the Altar, nine, of their own accord, laid themselves down in great sadness; and the tenth, having broken loose, though with much ado he was got back, yet being sacrific'd, reveng'd his Death by ominous Signs. Hereat *Julian*, with violent Indignation, cried out, and call'd *Jove* to witness, that he would never sacrifice more to *Mars*; and so verily it came to pass, and he never recalled his Vow. But calling then a Council of War, some propounded that they should fall upon *Ctesiphon*, though they knew it was a most Difficult Enterprize, both by reason of the vast strength of the Place, and for that the King was expected with a very great multitude to come to relieve it. The better way was resolved on; to send *Arintheus* with a strong Party of Foot to waste the Countrey, and intercept such as lay lurking up and down to watch occasions for incommoding the Army. He himself would now follow his own fancies, suggested to him by the great Ambition he had of proceeding further, and not listening to any Advice given him to the contrary, upbraided his Officers therewith, as those, who out of love to their Ease, would perswade him to lose the Kingdom of *Persia*, which was now, in a manner, in his hands. Having furnished himself with Guides little fit for his Turn, he would needs take the way leading into the mid-land Countreys, and leave the River on his left hand; and, cheated by some pretended Fugitives, he most unluckily commanded all the Ships to be set on fire, except twelve of the lesser size; which, being to be taken in pieces, he ordered to be conveyed in Waggon for the making of Bridges, as occasion should require. That which induced him so to do, was an unwillingness that the Enemy should become Masters of his Fleet; or else, as from the beginning of the Expedition had happened, no fewer than twenty thousand men must be employed in haling and governing these Vessels. But these Reasons were over-ruled by the just Fears of every man in the Army, though never so valiant, who evidently shewed, that, though perhaps the Drought, or height of the Mountains might render the Country unpassable, and force them back, yet there could be no Retreat, as he had ordered the matter, and that their Fears were not without ground, the Guides themselves attested, who, being put to torture, fore against his will, as *Zonaras* writes, confessed, that they had offered themselves to the service on set purpose to deceive him. Late Repentance is better than none at all. The Flames are now ordered to be quenched, and the utmost endeavour of the whole Army is used to that end; but so great progress had been made, that most of the Vessels were consumed, and only twelve could be found that had not been touched by the Fire.

Zonaras 700 triremes cum 400 onerariis incensas esse dicit. Libanius, 15 navis ad compingendos pontes aut esse servatas qui quidem eo loci, ut notat Valesius, multum laborat, ut hoc inconsultum & imprudens Achilles sui facinus excuset. Adde Augustinum de Civitate Dei, lib. 5. c. 27.

52. The *Persians* perceiving this his disadvantage, laid waste the Countrey as much as possible; and sometimes in one posture, another while in another, began to insult over their Enemies, now besieged in a manner. Both Emperour and Souldier was highly sensible of the want of their Boats for making Bridges, and more than that, knew not well how to resist the *Persians* now pressing upon them; for the additional Aids expected with *Arfaces*, and the other Captains, could not come at them for want of conveyance, by reason of the burning of the Fleet. *Julian*, a little to comfort his Men, caused some of the Prisoners to be brought forth, who being very lean, and thinne as most *Persians* naturally were, he thence took occasion to droll upon them and for the nastiness of their Hair, and their Cowardise, affirming them wont to turn Tail before ever they came to blows. This being easily said, and the Captives removed, a Council was held to consult of what was to be done. Much being alleaged, the ordinary sort cried out to be led back the same way they came, which he and many others opposed with reason, shewing how impossible such a Retreat must be, all Forage and Provisions being utterly destroyed by wasting of the Countrey; and the Waters every where out; besides, these Tracts swarmed so with Flies and Gnats, that the trouble of them was intolerable, the Skies being darkened with their vast multitudes. All Humane Reason failing, they betook themselves to the Entrails of Beasts, and thereby consulted their gods, whether they should return by the way of *Assyria*, or gently passing by the Feet of the Mountains, fall on *Chiliocomus*, lying near *Corduena*, on a sudden, and waste it; neither which were portended to be lucky.

Seet. 5.
He marches
for Corduena.

lucky. It was resolved then, seeing they could do no better, to march for *Corduena*, and on the sixteenth of *June*, by Break of Day, they set forward; when presently a great Dust was discovered, which some imagined to proceed from an infinite number of Asses feeding not far off, who were wont to go in a Body together to prevent the Attempts of Lyons upon them. Others thought the Enemy at hand, and therefore the Army united, and in a grassy Plain, by a Rivers side, incamped it self as strongly as might be; for the matter could not be discovered all this day. And the Night dark of it self, was spent in great Anxiety, none daring so much as to sit down or close his Eyes. But as soon as it was light, the glistering Armour shewed the Kings Forces to be at hand; whereupon, the Emperour restrained his Men from making any sudden Onset: but the Fore-guards met and skirmished; and *Machamens*, a Roman Leader, was killed; whose Death, *Maurus*, his Brother, afterward *Dux* of *Phœnicia*, revenged upon him that slew him, by sending him the same way; and, with a Wound received in his shoulder, brought off the dead Body. The *Persians* at length were forced to retire; and so were the *Saracens* that hovered about to fall upon the Baggage.

A. D.
363.

Ammianus,
lib. 25.

53. The Emperour then held on his course, and came to a Village called *Hucumbra*, where they rested for two dayes; and beyond expectation, had plenty of all things. The day following, having set fire to all they could not carry away, they proceeded slowly, and the *Persians* fell in upon their Rear, but were repulsed by the Horse, with loss of a Noble *Satrapa*, one *Adares*, who had been Ambassadour to *Constantinus*, and was very well received: he that kill'd him, presented what he took from him to *Julian*, and received a Reward suitable to the Action. The same day, a Party, or Regiment of Horse, called *Tertiaci*, was accused by the Legions of deserting them, and slipping away in an Engagement; by which Cowardise the whole Army had been well nigh discouraged. The Emperour hereat enraged, took the Ensignes from such as were Convicted of the Crime, and breaking their Spears, caused them to march behind with the Baggage, and Prisoners; their Leader, who was found to have valiantly demeaned himself, being appointed to Command another Party, the Tribune whereof was also found to have run away. And four other Tribunes were also cashier'd for the same fault: *Julian* contenting himself with this more moderate sort of Punishment, in consideration of the hardness of the Service. Having proceeded some miles further, to a place called *Marange*, a great multitude of *Persians* appeared, who were Commanded by *Meremes*, the General of the Horse, accompanied by two of the Kings Sons, and very many of the Nobility. All these men were armed *cap à pie*, so as an Arrow could find no entrance, except in the little holes of their Armour, through which they saw or breathed; they used the Bow very dextrously; some fought with Lances, and they were all guarded by Elephants; with the smell, Noise and Sight of which Beasts the Horses of the *Romans* were much terrified. Their Riders who govern'd them, ever since the Overthrow they received at *Nisibis*, had large Knives hung at their Arms; that if they grew head-strong and ungovernable, they might therewith wound them in the *Vertebra* of the Neck (for there alone they were mortally vulnerable, as was experimented once by *Asdrubal* the Brother of *Annibal*) and by their death the mischief might be prevented of raging and treading down those of their own side, as fell out at the said Battel of *Nisibis*, to the loss of ten thousand men, as some have written. *Julian*, putting on such a countenance as might best dissemble the Terror into which they were all cast at the sight, drew his Battel into the form of an half Moon, and fell with such violence upon the *Persians*, that they broke their Ranks, after great slaughter. The *Romans* had much the advantage, but the Souldier on both sides was so tired, as well by the great heat, as the fatigue of the Battel, and his Wounds, that three dayes Truce was willingly agreed on. Yet, this notwithstanding, the *Roman* was little at his ease, having Rest, but a very hungry Belly; for no Provisions were to be had, the Corn and Grass, and every other thing conducing to the sustenance both of Man and Beast, being burnt up. There was no other Relief, but for the ordinary Souldier to be supplied as far as it would go, with what the great Officers had provided for themselves, and what had been got for the Table of the Emperour, who contented himself with the fare of the very meanest, being indeed abstemious to a wonder.

Is met by a
great Power
of the *Persians*.

A Truce for
three dayes.

54. After a short and troublesome sleep, having, in imitation of *Julius Caesar*, applied himself to the Writing of the opinion of some Philosopher; when the dark and silent Night conduced much to his privacy, the Publick *Genius* which he saw when he came to be Emperour, in *Gall*, now again appeared to him, as he confessed to his Friends, in a sorrowful Habit and Posture, having the Head covered with a *Cornucopia*, and so in sadness went its way. At the Sight he was astonished at the present, but being above all fear, he commended the Issue of all things to what was Decreed

Sect. 5.

creed above, and rising from his Pallet on the Ground, went to his Devotions, and then saw an Exhalation in the Skies in the shape of a Torch, falling down, which, having passed a good part of the Air, suddenly vanished. He was terribly afraid that it was the Star of *Mars*, which menaced him in this manner; and ere it was yet day, caused the *Etruscan Aruspices* to be sent for, who being consulted about the meaning of it, affirmed out of the *Tarquitian Books*, in the Title concerning Divine Matters, that upon the appearance of such a Meteor, all Fighting was to be forborn; and when *Julian* contemned it, they entreated him that he would deferr his March some few hours; But he hardened himself against all things of this nature; and when it was light, gave order for the Army to dislodge. The *Persians* not daring to come to a formal Engagement, distressed them upon the Flank, as they saw opportunity, and fell in upon the Rear; of which, word being brought to the Emperour, he forgot to put on his Armour, and only snatching up a Target in the Tumult, ran to their Relief; when again he was recalled by a fresh Alarm, that the Foot was attacked in the same manner. Labouring to repell this Violence, without any regard had to his own Person, a Party of the *Persians*, being those called *Cataphracts*, set upon the middle Battel, and distressed the left Wing, the *Romans* not being able to endure the Noise and Smell of the Elephants. Notwithstanding this, the Emperour so bestir'd himself, that he restor'd the Battel to an hopeful Posture; and now the *Persians* giving Ground, with hands lifted up, he urged his men to the Pursuit, without any Care of himself, though those that were near him, advised him not to pursue the numerous and powerful Enemy too far. Neglecting all Counsel he was struck through the Arm into the side, and the lower lobe of his Liver, with an Horse-mans Javelin, it's uncertain how, which endeavouring to pull out he cut his Fingers; and falling upon the Neck of his Horse was brought into his Tent and dressed. The Pain being something abated; he called for his Arms and Horse, that by his Presence he might animate his men, and reinforce the Fight; but his strength would not answer his Inclination, so much was he weakened by a Flux of Blood. Now he despaired of Life, when he understood the place where he was hurt to be called *Phrygia*; for in *Phrygia* it had been told him that he must dye.

The *Persians*
fall upon the
Roman Army.

He receives a
Wound in his
side.

Is carried into
his Tent.

Makes a
Speech to
those about

55. The Emperour being conveyed into his Tent, incredible it is with what Rage his Souldiers breathed after Revenge, which they testified, by the beating of their Targets with their Lances, and obstinately resolved to dye with him, if it should so happen. Though they were even blind with Dust, and melted with Heat, yet did they, as having now no Governour, rush on upon the Enemy, who on the other side, sore galled them with his Arrows, and restrained their Violence by the Interposition of his Elephants. The noise and shouting of armed men, Groans of such as fell, snorting of Horses, and clashing of Weapons was heard afar off, and continued even till dark Night put an End to them. Fifty *Satrapas* and noble *Persians* were killed; besides a vast number of the ordinary sort. Of the *Romans* fell *Anatolius* the *Magister Officiorum*; the right Wing of the Army being worsted after the Disaster which hapned to the Emperour. *Sallustius* the *Præfect* was rescued from Destruction by one of his *Apparitors*; but *Phosphorius* his Councillor, or Assistant, was slain, and some Souldiers having passed through very great Dangers, seized on a neighbouring Castle, and therein securing themselves, joyned the Army after three dayes. But, while the Fight continued, *Julian* lay languishing in his Tent, and finding those about him very sorrowful and dejected to see him in that Case, comforted himself and them after this manner. The time of departing this Life, is, my Companions, now arrived, which as an honest and well meaning Debtor, I gladly repay to Nature; and not, as some believe, with Reluctancy and Sorrow; for by the common Opinion of Philosophers I am sufficiently instructed, in how much more blessed Condition the Soul is than the Body; and am satisfied that when one passes out of a worse into a better Estate, he ought to rejoyce rather than be troubled, considering also that the celestial Gods reward the most pious men with Death, as the greatest Reward of all others. I also am assured that it happens to me after the same manner, lest I should fall under so heavy Burthens as I undergoe, or do any thing unworthy of my self, having yet ever found by Experience, that Sorrows and Pains, as they domineer over Cowards, so are easily overcome by valiant Persons. Neither doth it repent me of mine Actions, nor the Remembrance of any Wickedness afflict me; either committed at such time as I lay in the Shade and in Corners as I could, and studied Virtue; or since I came to the Government. I think I have kept my self blameless and without Blemish, as one descended from the Gods above, in times of Peace governing with Moderation; and not without good Consideration, making ei-

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*Tarquitius li-
bras de Etrusca
disciplina &
Ostentarium
Tusculum con-
f. plevat, ut
ex Plinio &
Macrobio n. et
Val.*

*Idem alii.
At vero Liba-
nius ait in-
mem tunc fuisse
Julianum quod
Persas ubique
vicerat quia ni-
mia sui fiducia
in tanto Duce
nequaquam se-
renda est.*

*Itaque merito
in victoris Epi-
tome reprehen-
ditur.*

*Castellum vacu-
catum.*

Sect. 5. ther offensive or defensive Wars, though the Issue was not alwayes answerable; for the celestial Powers alone have the Sovereignty of Events. Concluding with my self that the end of Government is the Advantage and Safety of good Subjects, I have ever been, as you know, more inclined to Peace and Tranquillity; by the whole Course of mine actions opposing Licentiousness, as that which corrupts both Things and Manners, and whithersoever my Mother, the Commonwealth, how imperiously soever, called me, though to never so dangerous a Post; there have I stood immoveable, being accustomed to despise all fortuitous Events. I will not be ashamed to confess that I have heretofore understood that I should dye in War. And therefore I adore and praise the eternal Divinity, that I perish not by any Conspiracy, nor languish through the Force of a Disease; nor am I condemned to Death (he thought, it's probable, upon his Brothers End) but in the middle Course of my flourishing Glories, I have deserved so famous a Passage out of this World. He is equally to be esteemed a Coward who desires to dye, when he ought to live; as he who shuns Death when it comes conveniently. Thus much it may suffice to have spoken; my Strength now failing me. Concerning my Successour I wittingly say nothing, lest through Imprudence I should pass by a worthy Person; or by naming one I conceive fitly qualified, if another should chance to be preferred, bring him into imminent Danger. But as a dutiful Son of the Commonwealth, I wish her a good Governour in my room.

A. D. 363.
Non itaque christianorum sublatu est in filiis, qui Juliano reprefentantem oblatu occasione faciunt peregrinunt, ut cultu Libanitus. Eutropius, Festus Rufus, ac Victorius Epitome tam ab hostium equite et quidem fugiente Canto percussum esse memorant. Et quidem Eutropius, ut Marcellinus, etiam hunc Expeditioni interjuit.

56. Having mildly spoken thus much, he disposed his private Estate to such as were nearest in Kindred to him, and inquired after *Anatolius* the *Magister Officiorum*. *Sallust* the *Præfect* made answer, that he *was happy*; by which usual Phrase of Speech understanding that he was dead, he much bewailed his Misfortune. Observing those that were near him to weep, he gravely rebuked them, affirming it a pittiful mean thing to bemoan a Princē that was a Friend to Heaven and the Stars. They being thus silenc'd, he entred into a Subtile Discourse with *Maximus* and *Priscus* two Philosophers, concerning the Sublimity of Souls, till such time as the Wound gaping and the Tumour of the Vessels intercepting his Breath, having called for a draught of cold Water, about midnight he the more easily expired; in the two and thirtieth year of his Age. He was born at *Constantinople*, of *Constantius* the Brother of *Constantine* the Great, (who was made away by his Nephews, while this his Son was yet a Child) and of *Basilina* a woman of very noble Descent. A man truly to be reckoned amongst Heroick Wits, and otherwise considerable for the Eminence of his Actions; and his Majestick Comportment. For whereas, as wise men define, there are four Cardinal Vertues, *viz. Temperance, Prudence, Justice and Fortitude*, besides others contributing to perfect Accomplishments, as Knowledge in Military Matters, Authority, Felicity and Liberality, he intently studied the Practice of them all. As for the first he was so invincibly chaste, that after the Death of his Wife, he never had to do with any woman, remembring that Passage in *Plato*, how *Sophocles* the Tragoedian, when grown old, being asked whether he made Use of that Sex, denied that he did, adding withal, that he rejoyced to think how he was freed from that cruel and domineering Passion. And to strengthen him in this Resolution, he often called to mind the Saying of *Bacchilides* the Lyrick Poet (in whose Writings he much delighted) that as an excellent Limner lively expresseth the Beauty of a good Face, so Chastity sets off with Lustre the Perfections of a good Life. But even in his youth he could never be suspected as guilty of any Intemperance this way, by those who had the greatest Reason to know him. And to obtain this Power over himself, he took the true and natural Course, of Moderation in Eating, Drinking and Sleep; whetein he was constant and exact at all times. For, in time of Peace the slenderness of his Fare was to be admired, even as of one who was speedily to return to the *Pallium*, or the Contemplative Life; and often was he seen in his Expeditions to eat some slight and ordinary thing, walking upon his Feet. Having a little refreshed his weary Body, hardened by Labours, he would rise and visit the Guards and Sentinels himself. And if the Lights, by which he studied could have born Witness, they would in earnest have discovered a great Difference betwixt him and some other Princes; knowing that he indulged not his Pleasures, no not so far as the very Necessities of Nature required.

57. Of his Prudence these were sufficient Evidences amongst many more: He was excellently seen in martial Affairs, and most studious he was of Matters relating to Peace and civil Government; ascribing so much to himself as to preserve him from Contempts, with Prevention of Insolence. In Virtue he was older than in years, was desirous of all sorts of Knowledge, a Judge not to be biassed to one side or other; a most sharp Censurer of Manners; one who easily contemned Riches, and

Sect. 5. and despised all Mortal things: and had often this saying in his Mouth, That it was *unseemly for a Wise man that was possessed of a Soul, to seek for commendation from any thing relating to his Body.* As to his Justice, that no less was Eminent in several particulars. He was, according to the different nature of Matters brought before him, awful, but without Cruelty. By the punishment of some few, he restrained the spreading of Vice, and rather shook the Rod than struck with it: and (to omit many other instances) to open Enemies and Traitors he was so Merciful, that he mitigated the sharpness of their Punishment by that Mildness which was Natural to him. His Fortitude sufficiently appeared in the frequency of his Fights, and the Use of his Arms; besides his enduring the extremity both of Cold and Heat. The Duty of a Souldier is discharged by the Body; that of a General by the Mind: Yet did he, with his own hand, kill several stout and terrible Enemies; and by opposing himself to manifest dangers, he sometimes stopped his Men when running away. The Kingdoms of the furious *Germans* he overturned, and now, in the War of *Persia*, by venturing himself with the first, very much encouraged his Souldiers. The manner of his Attacquiring Cities and Castles, the various forms of his Battels, as occasion urged, his cautious Encampings, and his ordering matters relating to the *Prætentura* and Stations upon the Borders, discovered what his skill was in things relating to the Field. His Authority was of that weight, that he was both beloved and feared; as a Companion in Labours and Dangers; and yet as one who was ready to animadvert upon Cowards, and other sorts of Offenders; insomuch, that when he was yet but *Cæsar*, he governed an Army that was not paid, and that opposed against fierce and daring Enemies; he appeased them, when mutinous, by threatening, that except they would be quiet, he would depart, and return to a private Life; and, which may serve for many evidences of this nature, by his Entreaty he drew the *Gallican* Souldier, inured to cold Frosts and blasts upon the *Rhine*, through long and tedious wayes, into scorching *Assyria*, and the Confines of the *Medes*. His Felicity was so eminent, that he seemed to be borne up aloft upon the shoulders of Fortune, through all Difficulties. Though he removed from the West to a vast distance, yet, so long as he lived, all Nations continued stedfast in their Obedience. Of his Liberality he gave manifest proofs, in that his Tributes were very easie, the *Aurum Coronarium* he remitted, and forgave Arrears that had been long owing; indifferently judged betwixt the Treasury and private Persons; restored Tolls and Lands to Cities from which they had been taken; except such as had been sold by sufficient Authority: In conclusion, he never coveted to be Rich, concluding that Money would be most cautiously preserved in the hands of the Owners, and commending the Answer of *Alexander* the Great, to such as demanded where he kept his Treasure: that it was in the Coffers of his Friends.

58. His Vices were, a light Humour; wherein yet he would be advised and corrected: Talkativeness, to such Excess that his Tongue never lay still: Immoderate searching after Divinations, wherein he seemeth to have been as extravagant as his Predecessor *Adrian*. Superstitious he was, rather than any due Observer of such Rites; for he would sacrifice an Innumerable Company of Beasts; insomuch that had he returned out of *Persia*, it's thought that Bullocks would have failed him, as formerly *Marcus Cæsar* was twitted by a Libel upon that account. Vainglorious he was, and intemperately hunted for Praise and Fame in matters the most trivial that could be; and through a Thirst of Popularity often affected to talk with contemptible Persons. Yet for all this it might be well thought, that, as he himself said (if he should have done it) old *Justice*, which being offended by the Vices of Men, was by *Aratus* lifted up into Heaven, returned down to the Earth in his Reign; if doing some things according to his arbitrary Will, he had not acted unlike himself. He made some moderate and good Laws, both absolutely commanding and forbidding things to be done; but a few of another nature; amongst which, that unmerciful one whereby he forbade Rhetoricians and Grammarians, that were Christians, to teach, lest they should convert their Scholars from the worship of the Gods. In like manner that was intollerable, that he suffered many unjustly to be obliged to services of Corporations, being either Strangers, or by reason of Privilege, or Original, far estranged from those Bodies. His Stature was of the middle size, his Hair hanging down without curling, his Beard rough and picked, his Eyes sparkling, his Forehead comely, his Nose straight, his Mouth something large, his nether Lip hanging down. Broad Shouldred he was, and his Arms and Hands of suitable Proportion, his Limbs very well set both for Strength and Nimbleness. And because his Detractors accuse him as having caused Wars and Comotions to the Detriment of the Commonwealth, such ought to know for certain, that

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οἱ λευκοὶ βόες
μαρτυροῦνται
καὶ τὰς ἁγίας
εἰκόντας, ἡμεῖς
ἀπαρνησάμεθα.

Sect. 5. that it was not *Julian*, but *Constantius* that kindled the Flames of the *Parthian* A. D. War, out of desire of Revenge (having been cheated by the Lies of *Metrodorus*) 363. for that many Armies were lost, Cities seized, Forts taken or destroyed, the Provinces exhausted, and all things tended to Ruine; the *Persians* having pierced as far as *Bithynia* and the Shore of *Propontis*. In *Gall*, the *Germans* were so bold, that having harassed all that Country, they were about to pass into *Italy* over the *Alpes*; and such were the Miseries of the Provincials that they had nothing they could account certain, but Tears and Terrors; the Memory of things past being grievous, and the Expectation of what was to come still more troublesome. All these Disorders this young man, being thither sent under the Vizard of *Cæsar*, redressed, and dealing with Kings no otherwise than so many ignoble slaves, with wonderful Celerity dispatched. That he might in the same manner restore matters in the East, he set upon the *Persians*; and from that Attempt had brought back both matter for a Triumph, and a Surname (of *Parthicus* after which he sorely thirsted) had the heavenly Decrees been answerable to his illustrious Councils and Exploits. Some there are indeed, who though often beaten will yet unadvisedly fight again; and others who though they have suffered several Shipwracks, will still Court the same Dangers they formerly underwent; but who is he that can affirm this Prince, who was ever victorious, to have done the like?

59. Reader, all this while thou perusest *Ammianus* in another Language, who having been present in this Expedition, and an Eye-witness of what passed, is rather to be made Use of in this matter than any other, especially than *Zosimus*, who tells another sort of Story concerning this Journey, differing not only in Circumstances, but in Names. Others relate some other Circumstances of his Death, which are not much to be heeded, nor of Consequence whether they were true or not. Concerning his Character, *Pagan* writers fully agree with *Ammianus*, whose great Affection to him is most evident, and that for such Reasons, as the contrary Arguments have, possibly, caused others to be as severe, as he is indulgent to his Memory. That we might shun this dangerous Rock of Partiality we have not omitted any thing remarkable alleaged by himself or his Friends in his Commendation, but to make it more expressive, given it in their own terms, or manner of Speech, though often harsh; and therefore may be excused, if in another place, wherein his Actions in reference to Religion are to be scanned, we make a severe Scrutiny into his Virtue, so much celebrated by one sort of men. Here we shall only say in short, That it cannot be denied, but that he was a man of Excellent Parts, and that such as say the contrary incur the other Extreme, and deserve part of that Censure which so justly falls heavy upon lying *Zosimus*. His Atchievements against the *Germans* were extraordinary, considering his young years, and that he had been Educated in the Study of Letters, not of Arms, and was accustomed to the *Pallium*, not the *Chlamys*. His abstinence, as to Corporal Pleasures, was to be admired, and other things were very commendable in him, if he did not abstain and act on purpose to be seen of men. But, whereas his Admirers are wont to aggrandize his Actions against the *Germans* by the number of the Kings of such Nations as there he mastered; they seem very impertinent in so doing, to such as very well understand, that these Nations were but Tribes or Clanns of the same Countrey, and these Kings but *Reguli*, and the several Sons of the same *Reguli*, whose Kingdoms may be more truly termed *Pagi* than Realms. And, in my poor judgment, all Partiality and Prejudice put aside, they cannot conceal these Flyes which appear so noxious in the sweet Ointment of his Virtues; viz. that extraordinary Vain-glory and Ostentation with which he appears more to have swelled, than any man that ever we read of, if his Historian hath given us a true Account of his Speeches, and the general and constant manner of his Demeanour. But the Efficacy of his *Pagan* Religion could not reach so inward and potent a Vice, which makes its fortification in the Heart; nothing could do it but that from which he thought fit to Apostatize. However, Scholars are to rejoyce, that the great Honour procured to Learning, from the Conduct of Armies, and Success of Arms, by *Epaminondas* and *Xenophon*, was really continued and augmented by him. And yet possibly, he was in the number of those Princes, who had the more of Fame, because they had so little of Life; Time and Temptations discovering the frailties of glorious, but not well-founded beginnings: to be sure he altered much from that Clemency he first pretended toward Christians, and shewed the virulency of his Humour. But now we find him dead; and, as he himself said of *Constantius*, Let the Earth, according to the *Greek* Proverb, lye light upon him. We shall only add, that he died on the twenty sixth of *June*, in the second Year of his Reign, and the two and thirtieth of his Age; in his fourth Consulship, which he bore with *Sallust*, A. D. CCCLXIII.

THE ROMAN EMPIRE.

CHAP. II.

The Middle State or Condition of the Empire. From the Death of *Julian* to that of *Theodosius* the Great.

SECT. I.

From the Death of Julian, the last of the Family of Constantine, to that of Jovian; the space of Seven Months and odd Days.

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about a
Empire-

I. **J**ULIAN being dead, the next day early in the morning the Officers, with the Principals of the Legions and Troops, met in Council, the Enemy now lying round about them. Great and turbulent Diffention there was about the Election of an Emperor, whilst *Arintheus* and *Victor*, who remained of *Constantine* his Courtiers, laboured to have one of their own Faction: and on the other side, *Nevita* and *Dagalaiphus*, with the Commanders of the *Galls*, endeavoured to prefer a Man of their own Acquaintance and Interest. At length they all pitch'd upon *Salust* the *Prefect*, a very Worthy Person; but he excusing himself by Infirmary and Old Age, when they were at a stand not knowing what to do, some few made mention of *Fovian*, and in so desperate a case he was elected. He was the Principal *Premicerius*, or chief of the *Domestick Protectors*, the Son of *Varronian*, who was of the Rank of *Comites*, and very Eminent, being a Native of *Singidunum* in *Pannonia*, who having lost many Children, was commanded in a Dream to call his next Son by the Name of *Fovian*, and had lately retired to a Private Life. The Army lying abroad, to the extent of four miles, upon the Acclamation and Shout of *Fovianus Augustus*, those that were in the Front mistook the Name, and thinking *Julian* to be recovered, out of an ill-grounded Joy much more augmented the Solemn Cry; though finding afterward their mistake, they turned it into Tears and Lamentations. *Fovian* thus promoted, an Ensign-bearer of those Souldiers called *Foviani*, who had been commanded by *Varronian*, and maligned his Officer, fearing that he who had detracted from the Father should now be punished by the Son, fled over to the *Persians*, and getting speech of the King, acquainted him with the Death of his Enemy, and how by a company of contentious Fellows, in a tumultuous manner, one *Fovian* was chosen a kind of Emperour, who formerly had been but a *Protector*, and was now no better than a Coward. *Sapor* gladly hearing the News he had so long wished for, and elevated by fresh hopes, gathered his Men together for a fresh Onset, with resolution to fall on the Rear of the *Roman* Army. The Entrails of Beasts being consulted for *Fovian*, as *Ammianus* tells us (though surely not by his Command) he being of a Religion opposite to all such Superstition, promised Security if he removed, but destruction if he continued within the Trenches.

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rchet,

2. Issuing out of the Camp he was presently attacked by the *Persians* with their Elephants placed in the Front. By them both Men and Horses were much disturbed, till the *Foviani* and *Herculiani* killed some, and opened their way to the Horse; and then being succoured by the Legions of the *Fovii* and *Victores*, did great Execution, with the loss of *Julianus*, *Macrobius*, and *Maximus*, three valiant Tribunes and principal Officers of the Army. They being buried as the time and urgency of Affairs would permit, *Fovian* proceeded to a Castle called *Sumersi*, when it was now almost Night; but there the Body of *Anatolius* was found and committed to the Earth also in a tumultuous manner, and sixty Souldiers, who (together with the *Palatine* Guards) had betaken themselves to a neighbouring Castle after the Fight, recovered the Army. The day following they encamped as they could in a Valley, and drew a Line for their defence, which they secured by sharp Stakes, and left but one Passage out of sufficient capacity. Hereupon the Enemy infested them both by

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At Zosimus &
Zonaras post
Joviani tan-
dem mortem,
Imperium om-
nium consensu
delatum esse
Salustio nar-
rant, quod
quidem ipse
senectutem cau-
satam constanti
animo recusavit:
filio vero
quod adhuc is
junior esset,
deferri noluisse

A Dioletio
cui Jovii; et
Maximiano,
cui Herculez
cognomen ac-
cessit.

Sect. I.

Arms and Words, reviling them as Traitors and the Murderers of an Excellent Prince, for they had heard that *Julian* fell by the Hand of a *Roman*; and a Party of their Horse had the confidence to break into the Camp well nigh as far as the Emperors Pavilion, but were beaten back with great loss. Discamping thence the night following they came to *Charcha*, a place safe enough, where the Enemy did not at all molest them; and on the fifth of *July* reached a City called *Dura*, the Carriage Beasts being now so tired, that they that governed them marching on foot, had been cut off by the *Saracens*, but that they were relieved by some of the Light Horse-men. The *Saracens* had been lately offended by *Julian*, to whom having recourse for the Pensions formerly allowed them, they had this Answer returned, That a warlike and vigilant Emperor was wont to have Steel, but no Gold. About this place they were forced to stay four days, for the *Persians* still dogged them at the heels; and when they turned head to give them Battel, again retreated, and so forced them to spend the time in Delays. But now they were told by some busier than the rest, that they were near their own Confines, and thereupon the whole Army required, and that in a multuous manner, that they might pass over the River *Tigris*. The Emperor and the Officers earnestly opposed it, shewing that now upon rising of the Dog Star, the Waters were exceedingly increased; and further urging, that most of them could not swim, and that the Enemy had seized the further Bank, they desired them not to precipitate themselves into so manifest danger. But they were impatient of Contradiction, and proceeded as far as to Threats: whereupon he commanded the *Galls*, who were accustomed to swimming, first to take the Water, that if they perished in the Attempt, the rest might be taught by their Destruction to learn Obedience; but if they came to Shore, the Passage might be prosecuted with the greater confidence.

Mutinies, and will needs pass over *Tigris*.

3. Some of these *Galls* entering the River in the night sooner recovered the further Bank than was imagined, and killing the *Persian* Guards whom they found asleep, thereof gave notice to the Army. The Souldiers having understood their success by their Signal, were hereby violently moved to take Water, where some Undertakers engaged by the use of Bladders to frame a sufficient Bridge for their Transportation. Whilst this they endeavoured to accomplish to small effect, *Sapor* the King of *Persia* was not a little perplexed in his mind. He being absent of late had understood how matters had passed since his departure, that so many Men were slain, and so many Elephants killed, as he had not been accustomed to hear of, and considered that by these continual Exercises and Labours the *Romans* were rendered more hardy and servicable, and after the fall of their late Emperor would not have respect so much to their own safety, as meditate Revenge even to such extremity, as either to overthrow the Difficulties wherewith they were surrounded by a notable Victory, or else finish the course of their toil and hardship by death it self. Moreover, he knew that further Supplies might speedily be gathered out of the neighbouring Provinces, and indeed that another Army lay in *Mesopotamia*, not much inferiour to this. He was sensible that his own People was much harassed and discomposed by frequent losses, and wasting of the Country, and began to apprehend several disadvantages, and that the issue might be pernicious on his own side; but hearing of this bold Attempt of five hundred *Galls*, he resolved to offer *Jovian* Conditions in a time so critical, when the Bridge could not be completed by reason of the strong Current, and all Provisions being spent two days before, the Souldier was enraged with Anger and Famine, and desired to end his days rather by the Sword, than by so pitiful a death as that of Starving. But the Conditions he propounded by the *Surenas* and another Nobleman, were hard and perplexed, and four days were spent in the Treaty, managed on the *Roman* part by *Salust* the Prefect, and *Arintheus*, the Army in the mean time languishing with Famine. He pretended he was moved by Humane Compassion, to permit the Retreat of the Remainders of *Julians* Army; in consideration whereof he would ask but his own, which the Emperor *Maximian* had so unjustly taken from him. He demanded the five Regions beyond *Tigris*, viz. *Arzanena*, *Moxoena*, *Zabdicena*, *Rheimena*, and *Corduena*, together with fifteen Castles, besides *Nisibis*, *Singara*, and *Castra Maurorum*, a Fort of very great consequence. *Ammianus* tells us, that it had been better to have fought ten times over, than to have yielded to the least of these things, but the fearful Prince was persuaded to grant them by a company of Flatterers, who terrified him with the Name of *Procopius*, as who undoubtedly upon the report of *Julians* Death would set up for himself, having an Army at his devotion for that very purpose. He hardly obtained, that the Inhabitants of *Nisibis* and *Singara* might be removed into the *Roman* Territories; and consented to a thing which our Historian terms pernicious and impious, which was, that he should not assist *Arfaces* King of *Armenia* against the *Persians*, though

Sapor inclines to give them good Conditions.

A Truce for 30 years upon what terms.

A.D. 363

Dissert. a. p. Mesopotamici cum suis. et trans eam sita.

Sec. 1. though a constant and faithful Friend of the Empire. This *Sapor* pressed upon two accounts; that he might be revenged on *Arfaces* for having wasted *Chilicomus* at the Emperors instance; and be capable of invading *Armenia* at his pleasure. And hereupon it happened afterwards, both that *Arfaces* was taken Prisoner, and that part of *Armenia* bordering on the *Medes*, with *Artaxata*; was during these Disturbances seized by the *Parthians*. For performance of the Conditions Hostages were exchanged; on the Roman part *Nevita*, *Victor*, and *Mellobaudes*, Eminent Tribunes of the Army; on the Persian, *Bineses*, one of the chiefest of the Nobility, and three other *Satrapas* of note and quality.

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4. This Peace thus concluded for thirty years, and religiously sworn to, is as remarkable as any Passage of these Times; and various are the Reflections which Writers make upon it, according to the diversity of their Inclinations. That it was very ignominious all agree, the *Romans* having not been accustomed to part with their Territories, though sometimes they received notable Defeats. Some held there was no necessity of making it, as *Ammianus* by consequence; for if what he writes be not a groundless Conjecture, *Jovian* might easily have marched away before the Treaty began, and while the *Persians* were making the Overture, into *Corduena*, a Country fertile within his own Dominions, and distant but an hundred miles. Others say, that the Agreement was necessary, but blame him for not breaking it so soon as he was in a capacity to do it: and *Entropius* instanceth in War made notwithstanding such Accords, upon the *Samnites*, *Numantines*, and *Numidians*; adding that this Peace was not ratified, but that *Jovian* fearing an *Æmulator*, therein little consulted his Glory. If the Peace was necessary, *Jovian* can neither be blamed that he made it, nor that he did not break it. It was *Julian* who was the Author of the necessity, whom not onely Christian Writers accuse of rash Ambition and Wilfulness as to this point; but *Ammianus* too, as we have lately seen, for he was little better than fool-hardy in the matter of burning of his Ships; for although this course hath been taken otherwhiles, as might be instanced in several, who did it to cause their men to fight, by seeing all hope of Escape cut off from them; yet hath it been practised either by those, whose great Temerity hath overtopped their Prudence, or in case of some extraordinary matter to be obtained by the fortune of one Battel, when the meanness of the present Condition of the Person, in respect of that great Fortune he should arrive at by the success of so hazardous an Enterprize, hath prudently excited him to venture Life and all. Such young, ambitious, and rash Persons as *Alexander* the Great, and others, the Conquests of whom are to be ascribed to Fortune, not to Conduct, might well have been by Juvenile Heat excited to such an act of Desperation: or the Kingdom of *England* might easily have tempted a Duke of *Normandy* to burn his Ships, and lay Life and all things at the stake. To which we may adde, that if sometimes such Extremities have been embraced by those who have been excluded from their Rights, or cast out of Possession, the just indignation thence conceived, and the miserable estate to which they have been reduced, have afforded sufficient Arguments, not onely for their Excuse, but Commendation. But all seem to be wanting to *Julian*, upon an exact scrutiny into this matter: For to consider the Ends of his entering upon this War, the Reputation and Safety of the Empire, could onely be sufficient Motives to the Undertaking. But Reputation was through his natural vain glorious Temper, as his Friends confess, turned into Ambition and stubborn Opinionatry, while to purchase the Title of *Parthicus*, he would as in other particulars, so in this especially of burning his Ships, sacrifice not onely his own safety, but that of his whole Army, contrary to the Counsel and Prayers of all his Officers. That safety which he ought in reason to propose to himself, could be no other than that of the bordering Provinces of the Empire, to preserve them from Conquest or Devastation. But by this rash Attempt he endangered more to preserve the rest, not onely in exposing to ruine his own Person, upon the safety of which much more might have depended than possibly did at this time, but that of the Army also, which being destroyed, the Destruction of the Provinces must needs follow, and probably some other Attendant on such a Disaster. Indeed had the Empire of *Rome*, or his Condition as Lord thereof, been contemptible in comparison of what he was about to obtain, the venture might have had advantage; but in this case the stake was much greater than what he could rationally expect to win. And yet the Kingdom of *Persia*, though not to be named in the same day with the Empire of *Rome*, was too great a Prize to be won at one cast, or with such a lucky hit as was that of *Alexander*. One Battel would not do it, nor many more: many Armies he could not but expect out of the Overthrows and Ruines of some, which possibly he might have defeated. And he found it was a thing

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treat *Julian*
was Au-
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practicable to waste the Countrey, and cast him and his Forces into such necessities as he could not supply; especially having, by the unadvised burning of his Fleet, cut off Succours both of Provisions and Men.

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For Jovian
could not
have prosecu-
the War as
he left it.

5. Such was the Conduct of *Julian* in this Action; the course of which had *Jovian* prosecuted, and carried on the War where he left it, with the same Designs, whatever great Arguments *Ammianus* tells us that *Sapor* had to treat with the *Romans*, he might possibly have been guilty of a greater oversight than that Error was he committed in making the Peace; and ten times over he might have fought, and twenty to them, ere *Julian's* Project could have been accomplished. Whether he could have gently run away, or made a Retreat without a Truce, saved his Men by flight, and the Provinces by his Protection, is more difficult to be resolved, than to take the bare word of *Ammianus*, whose story concerning the danger of passing the River, a man will think little consistent with this Affirmation, that he might have escaped into *Corduene*, but an hundred miles off: and had this Retreat been easie, or so possible, why doth this Historian, as well as others, so tax *Julian* for burning his Ships, and thereby cutting off all security for a Return into his own Dominions? To be sure the danger the Army was now in was extreme, as well by the Multitudes of *Persians*, which on all sides pressed upon them, as by Famine: and this *Zosimus* affirms, whom we have reason enough to credit in this point, though the series of his story in reference to this Expedition be obscure and insignificant, in comparison of that of *Ammianus*, an Eye-witness. And he adds, that notwithstanding the Peace, and that they had leave to return at their ease, yet scarcely at last with great toil and loss they arrived at *Nisibis*. What then would in probability have been the issue, had the Multitudes of *Persians* every where way-laid them, and cut them off, while they also struggled with Famine? As for the Assertion of those who held he was to have broken the Peace when out of danger, it is not worth taking notice of; for much more ignominious had been so great a breach of Faith, and violation of the Law of Nations. If such Covenants be not performed, though disadvantageous, what Trust will be given by Men one to another? If no Trust, no Entercourse amongst Nations: all things must run to extremity. He that keeps no Faith, no Faith will be kept with him. All men will stand aloof from such a Prince, and behold him not as a Creature fit for Humane Society, but an Animal of a more savage nature, destined onely for the Affliction of Mankind.

Nor ought he
to have broken
the Truce
once made.

6. The Peace (most ignominious however) being religiously sworn to on both sides, *Ammianus Marcellinus* further tells us, that the *Romans* retreated to find a more convenient place for passing the River, being sorely distressed both with Hunger and Thirst, which constrained some to venture over by stealth, who were either drowned, or being got to Land were knock'd on the head by the *Persians* and *Saracens*, or else taken and sold for Slaves. But being arrived at the designed place, and the Word once given for taking the water, incredible it is with what alacrity each one strove to prevent his Fellow, some making use of Bladders, and others of other means and helps. The Emperor, and some few about him, served themselves of those few Boats that were remaining of the burnt Fleet, and afterward caused them so often to cross the River, till all were got over. In the mean time the *Persians* began a Bridge at a good distance, with a design to fetch off all Stragglers, and Cattel that should come behind; but their Plot being discovered, they desisted. The *Romans* freed from this fear began their Retreat, and by great Journeys came to *Hatra*, an old Town situate in the middle of the Desert, and long before deserted, which *Trajan* and *Severus*, though both great Warriours, labouring to raze, were well nigh destroyed with their Armies. It being here known, that for seventy miles in this dry and barren Countrey no Water was to be had, but such as was salt and stinking; neither any thing to feed on except *Abrotanum*, *Wormwood*, and *Dracontium*, with other such unfavoury Herbs; sweet water was provided, and Camels killed to mak as good Provision as was possible. After a March of six days, wherein not so much as a little Grass could be found, *Cassianus* the *Dux* of *Mesopotamia*, and *Mauritius* a Tribune, having been sent before upon this Errand, met them at *Ur* a *Persian* Castle, and that very seasonably with Provisions, which the Army under Conduct of *Procopius* and *Sebastian* living very frugally had spared. From this place another *Procopius* a Notary, and *Memorius* a Tribune, were dispatched away for *Illyricum* and *Gall*, to give notice of *Julian's* Death, and the Promotion of *Jovian*. They had Instructions to persuade *Lucillianus*, the present Emperors Father in Law, who had given over all Employment, and retired to a private life at *Sirmium*, to accept of the Codicils or Commission they carried with them

The Army
passeth the
River *Tigris*.

And prosecu-
tes its Re-
treat.

Messengers
sent by *Jovi-
an* to establish
his Interest in
the West.

Sect. I. them of a *Magister Militum* of both sorts; and to hasten to *Milan*, there to order matters as should most suit with his Interest. By more secret Letters he desired him to get such Attendants about him as he could certainly trust, to put in Execution his Orders: And one *Malarich*, who was his familiar Friend, and lay then in *Italy*, he very prudently constituted *Magister Militum* in *Gall*, in the room of *Fovinus*; for hereby he both removed a man very powerful, and whom he had reason to suspect; and obliged one of so mean Condition, by preferring him to such a Command. The Messengers were further enjoined, to report all things that had lately happened with advantage; and having sifted all mens Inclinations, to return with the best Intelligence they could, upon which future Councils might be founded. Yet made they not such haste, but the news of the late Disasters had flown to several places before their Arrival.

A.D.
363.

The Army distressed by famine.

Nisibis according to Agreement is put into the hands of the *Persian*.

7. In the mean time all Provisions again failed, and the Army was so grievously distressed with Famine, that a little supply they had of a very few Carriage Beasts, preserved Mans Flesh from being offered up to the ravenous Tyrant; and one *Modius* of Flower was sold for no less than Ten *Aurei*. At length they came within sight of *Nisibis*, and pitched their Tents without the City; for the Emperor, though earnestly intreated by the Inhabitants to enter and lodge in the Palace, as his Predecessors had done, pertinaciously refused, as ashamed that a City so impregnable whilst he was in it, should be delivered up to a revengeful Enemy. Now was one *Fovian* (the chief of the Notaries) suddenly taken away as he sat at Supper, and being cast headlong into a deep Pit; was overwhelmed with an Heap of Stones; for that having after the Death of *Fulian* been mention'd as worthy of the Empire, he had not since that time demeaned himself modestly, but was often taken notice of to whisper matters relating to that Affair, and frequently to entertain the Officers. The day following *Bimises*, a Noble *Persian*, zealous to perform with all expedition what his King had enjoined, earnestly pressed the Emperor for Performance of the Conditions of the Peace, and he accordingly permitted him to enter *Nisibis*, and take Possession. Being seized of the place, by a Signal given from the Castle, he required all the Inhabitants to be gone, who now earnestly besought *Jovian*, that they might not be compelled to quit their Native Seat, affirming that they of themselves were able, without any publick Charge, to defend the place: but he was not to be moved in the point, lest he should incur the Crime of Perjury, as he pretended, but indeed fearing other things, if we believe *Ammianus* and others. This caused *Sabinus*, a Townsman of chiefest Eminency both for Birth and Riches, to say openly, That *Constantius*, though sometimes beaten by the *Persian* in so heavy a War as lay upon him, and driven to so great necessity, as in his flight to feed on a Crust of Bread, which he begged of an old Countrey Woman; yet to his dying day had lost nothing of his Territories: Whereas *Fovian* in the very beginning of his Reign had parted with the very Bulwark of his Provinces; which in former times had still been protected by the vigorous Opposition of this Town. But the Emperor was deaf to all that could be said, still urging his Oath, and the Inviolability of it. And now he was presented with a Crown, which after earnest refusal, when he had at length accepted, one *Sylvanus*, an Advocate, with great confidence cried out, *So maist thou, O Emperor, be crowned by the rest of the Cities.*

A miserable sight of the Inhabitants quitting the City.

8. Exasperated herewith he commanded all within three days to leave the Town, and appointed a Party of Souldiers to turn them out, who threatening all that refused with Death, the Walls and all the Streets were crouded with a Multitude, which by Tears and other signs shewed all Passion imaginable, and imbraced the very Doors and Posts of the Houses at their Farewel. As every one could most commodiously dispose of himself and his, forth they passed; but being turned out in haste, they hurried away some of their best things, and the rest of their stuff, though much in quantity and of great value, they left behind for want of Beasts to convey it. Here our Historian falls into an Expostulation with the Fortune of *Rome*, not so much for the Qualification of the person to whom she had committed the Reins of Government, as for the Circumstances under which he lay in reference to a Rival, the fear of which caused him, out of a desire to come into the Western parts to neglect *Nisibis*, and easily give up that City, which ever since the days of *Mithridates* had preserved the East from being overrun by the *Persians*. He repeats his Observation, how the *Romans* never from the Foundation of the City parted with their Territories; and approves of their ever breaking an Ignominious Peace.

An hoc verum fuerit vide Valisii Annot. in locum.

9. The Inhabitants being driven out, the City was delivered up, and together with it all the Forts in the Countrey, by *Constantius* the Tribune. Now was *Procopius* sent with the Body of *Fulian* to be buried in the Suburbs of *Tarsus*, as he had ordained;

Sect. I.

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How matters
went in Gall
upon the Ne-
gotiation of
the Messen-
gers.

dained; which having performed he went away, hid himself, and never was discovered though diligently sought for; till long after he suddenly appeared in Purple at *Constantinople*. These things thus appointed, after a March of several days, at length they reached *Antioch*, where after a very little stay *Jovian*, now distracted with various Cares desired to be gone, and sparing neither Man nor Beast came in a very cold season, and hardest Winter weather to *Tarsus* in *Cilicia*. Having given order for the beautifying of *Julians* Tomb, (whence his Body, as some write, was afterward removed to *Constantinople*) he proceeded thence by great Journeys as far as *Tyana*, a Town of *Cappadocia*, and there *Procopius* the Notary, and *Memorinus* the Tribune, met him, and gave him an account of their Negotiation; though *Lucillianus* (through procurement of a corrupt Officer) was killed by the Souldiers. For, having entered *Milan* with *Seniauchus* and *Valentinian*, two Tribunes, when he understood that *Malarich* refused to accept of the place of *Magister Militum*, he hasted away to *Rhems*, where applying himself unseasonably, while matters were not yet settled, to examine the Accounts of one that had been an *Actuary*, this man conscious of his Frauds, ran away to the Souldiers, and making them believe, that *Julian* was still alive, so incensed them against him as a Traitor, that in a Tumult they killed him and *Seniauchus* too; but *Valentinian*, who was afterward Emperor, escaped by the care and direction of him with whom he lodged. This ill News was something sweetned by better out of *Gall*, where the Souldiers willingly owned the new Emperor. To *Valentinian*, who came along with the Messengers, was given the Command of the second *Schole* of the *Scutarii*. *Vitalianus*, one of the Company called *Heruli*, who long after was honoured with the Dignity of *Comes*, and managed matters badly in *Illyricum*, was made one of the *Domestic* Protectors. And *Arintheus* was sent away with all speed to succeed *Jovinus* in *Gall*, upon refusal of *Malarich*, with Orders to animadvert severely upon such as should be Tumultuous, and send up in Chains to the Court those that should be Authors of any Seditious Attempt.

Jovian is
Consul with
Varronian his
Son.

And dies sud-
denly.

10. Being arrived at *Ancyra*, and providing for the Solemnity as the Time would permit, he there entered his Consulship, wherein he assumed as Colleague *Varronian* his Son, (for his Father whom he intended was dead whilst he was upon the way) a very young Child, who cried and struggled when he came to be carried in the Curule Chair, according to the Custom; and being by no means to be kept in it, thereby was portended in the Opinion of our Author, what followed very soon after. For, *Jovian* still travelling westward, and coming to *Badastrana*, a Town situate upon the Borders of *Bithynia* and *Galatia*, was there found dead in the night, and afforded matter for various Discourse: Some said he was stifled by the Dampness of his Chamber, which had been newly plastered; others by the Smoke of Coles, of which Histories indeed and the Books of Physicians afford us many Examples, nothing being more suffocating than the Vapour of Charcole, especially joyned with the steam of fresh Lime or Plaster) and some conceived it might come from a Surfeit. But there were not wanting, who thought him spent by the tediousness of the Journey; and *Socrates* writes, that it was by a stoppage in the Lungs, which might be occasioned by the former external causes. He adds, that at this place he was met by many Senators of those of the greatest Nobility, amongst whom was *Themistius* the Philosopher, who then spake before him his Oration intituled *Consul*, which afterward he rehearsed at *Constantinople* in the Audience of the whole Multitude. *Ammianus* observes, that *Jovian* and * *Scipio Amilianus* had one and the same kind of End, and that no Inquisition was made after the Death of either of them. As for his Character he adds, that in doing business after Dinner, and in jesting merrily and freely with those about him, he chose to imitate *Constantinus*. That he was studious of the *Christian* Religion, sometimes Magnificent, indifferently well Learned, very good natur'd, and probably (had he lived) would have had a careful regard to the making of Officers; as might be judged by those few he had onely time to promote. As to Vice, that he was given to Gluttony, Wine, and Women, which Faults he thinks might have been corrected by a sense of his present high Condition. *Entropius* writes, that setting aside the Peace he made with the *Persian*, he was otherwise neither a Coward nor Imprudent; that he was courteous, and naturally liberal: and with his Death he concludes his Ten Books, being an Abridgment of the *Roman* History, having himself been also present in this Expedition. *Victor* describes him as beautiful in Body, pleasant in Conversation, and studious of Learning. *Ammianus* saith, he was very tall, and his Limbs of a proportionable largeness, so that scarcely could an Imperial Habit be found fit for him; of grave Gesture, pleasant Countenance, and gray-ey'd.

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Joviano &
Varroniano
Cos.

Alii scripse-
runt, eum com-
estis fungus re-
centibus vene-
natis necatum
fuisse.
Chrysostomus
affirmat, vene-
nata potione
extinctum,
ejusdemq; filio
Varroniano
præ imminen-
tium discrimi-
num metu, al-
terum oculum
erutum esse.
* *Hic non ob-*
scure innuit,
eum proximo-
rum insidiis
strangulatum
fuisse. Vide
Vales.

His Character.

Sect.1.

11. So did *Jovian* in the eighth Moneth of his Reign; and such is the Character given of him, which can amount to little on any account, none being able to say how he might have proved, as neither his Predecessor himself, had they had those Opportunities and Temptations, for practice of good and evil, which are wont to be plentifully afforded in long Governments. Some Laws there are extant in *Theodosius* his Code, which are wont to be ascribed to *Julian*; but the Dates of them (if true) evidently shewing, that they were made after his Death, they are to be restored to *Jovian* as their Author, with an account of what they principally concerned. *Julian* died as we have seen in the Moneth of *June*, and yet there are several Edicts said to be his, though dated in that of *October* and after. By the first of them, what Writers tell us concerning the Luxury of this Age, and that particularly as to Building, is somewhat illustrated. *Ammianus* taxes the Souldiers, amongst other things, for not being satisfied without they lived in Marble Houses; and by a Law of *Julian*, which we have already mentioned, concerning *Africa*, it appears how the *Cursus publicus* was wont to be burthened by conveyance of this kind of Stone in that Province for private Buildings. Most commonly it hath been found, that Hospitality and other good qualities have gone down most, when stately Houses have gone fastest up; yet however this tending to the Ornament and Beauty of the Empire, whether *Julian* or *Jovian* was the Author, an Edict was made, by which for prevention of the scarcity and dearth of Marble, Licence was granted to every one that pleased to dig for it, that by that means many good Veins might be discovered. But if the Date would permit it, it might easily be guessed that *Julian* made this Edict, and thereby aimed at the rebuilding and ornament of the *Pagan* Temples, more than the lustre of other Buildings. Whether he made this Law or not, that he was no Author of the next which follows, there are more than one convincing Arguments. As it was the Custom of bountiful Princes to give or assign Lands or Estates to private persons, as they saw occasion; so was it usual, and with very good reason, that when the Treasury was exhausted, and there was pressing occasion for Money, an Imposition of Gold or Silver was laid upon those Estates, which having been received in free gift, it was much more reasonable that they should be charged than the Inheritances of other persons, or such Possessions as they had purchased by their Care and Labour. Now hereupon arose a Case, whether if such Impositions were to be laid upon such Lands thus freely given, they were not also to be extended to others, that had been confiscated, and for such Reasons as pleased the Prince, had been again restored to the former Owners or their Children. This question by an Edict directed to *Aginatius* the *Consularis* of *Byzacena* from *Mopsuestia*, on the twelveth of November the Emperor decides in behalf of those to whom such Lands were restored. He affirms it absurd and not agreeable with the Tranquillity of his time, that such as had been proscribed should be rendred obnoxious to the Collations of Gold and Silver, which had been imposed by *Constantius*, of Blessed Memory; for as much as there is a vast difference betwixt those that enjoyed what they had by the Munificence of the Prince, and such as had deserved to have their own restored to them. Indeed the Law is so favourable in this case generally, that restored Estates seem as if they had never been taken away; and Restitution doth not create any new Title, but causeth the old one to return, and to be in force, as the Interpreters of the *Feudal* Laws affirm, when a Vassal is pardoned by his Lord, that no new Grant is to be made of his Fee, but the old Tenure onely renewed; and a Fee which hath been forfeited and restored, is not to be accounted to have belonged to the Lords Domain, or by any such Forfeiture incorporated with it. Observable it is, that to *Constantius* is attributed the laying of the Impositions upon Lands freely given by the Prince, and reason he had to lay them, he and his Father having granted many Possessions and Goods, formerly belonging to the Temples of Idols, as the *Pagans* in vain complained. For this reason we may be assured *Julian* would never have said he was *Divæ Memoriae*, or of Memory suitable to that of their *Divi*, being so far from it, that having an inveterate grudge to *Chi* and *Chappa*, he ever upon occasion makes mention of him and his Father without any note of Honour, as other Princes of what Religion soever, are wont to do toward their Predecessors. Nay, sometimes when he abrogates their Constitutions, he will not deign so much as to name them. This is a sufficient proof that he was not Author of this Edict, which bearing Date from *Mopsuestia*, further evinceth its Original to have been from *Jovian*. For we see that *Jovian* from *Antioch* travelled into *Cilicia*, a Town of which Region was this *Mopsuestia*, so called from being the Habitation of *Mopsus*, an old Poet or Vates of those Quarters.

Laws by their
Dates seeming
to have been
made by him.

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L.2. de Metallis
et Metallariis
Cod. Th. l. 10.
tit. 19. Absit a
Cod. Just. ut
temporaria.

L.1. de Colla-
tione Donata-
rum, &c.
Cod. Th. lib. 11.
tit. 20. Absint
hujus tit. L. l.
omnes a Cod.
Just. earum lo-
co unica lex
posita ex No-
villa Theodosii
33. Vide Go-
thofr. in l.

Sect. 1.

One against
the Frauds of
the Numerarii.

12. On the twenty seventh of *November* following was published at *Viminacium*, a City of *Illyricum*, and directed to *Mamertinus, Præfectus Prætorio* of that District, an Edict against the Frauds of the *Numerarii*, who had the management of Tributes in their hands, and thence opportunity to do very great mischief. As *Fulian* formerly, so now he subjects them to torture in Examinations, a course taken onely with vile or mean persons, and not onely those that were meanest in condition, but even such as belonged to the *Præfectus Prætorio*, and this reason is given for it, that they were wont to have *Auditores* or Assistants, who were not to be endangered or prejudiced by their Accounts, but each one was to stand upon his own Legs. On the ninth of *December* another Edict bears Date made in behalf of the *Suarii*: These were a Body, Company, or Society of men, whose Employment it was to provide Hogs Flesh for the service of the People of *Rome*, or of *Constantinople*, and that it seems from the time of *Aurelian* the Emperor, to whom is ascribed the first and free Allowance of this sort of Flesh to the *Romans*, being divided and distributed man by man. For there were certain Provinces of *Italy*, in which the Possessors of the Lands paid an annual quantity of *Lard* or Hogs Flesh in way of Tribute; as *Campania, Lucania, Brutium*, and *Samnium*. And though at last it was paid *in specie*, yet afterward *Constantine* left it to the discretion of the Countreymen themselves, whether they would pay it so, or the value of it in Money, to prevent Abuses frequently committed by the *Suarii*, in reference to the Weight thereof; for it was ever to be weighed, and they were not to trust their Eyes alone in this matter. When Money was paid, it was to be at Market-rates, or at such prices as then were usually paid in the several places. Such order did *Constantine* take; who also to supply the Number of those *Suarii*, which in his days was very much lessened, forbade any to be excused from the Charge, either by pretence of any Dignity, or any Rescript of the Prince himself. And as for those who had already deserted their station, he commanded they should either be forced back to the Service, or hire others to discharge it for them. But still it was in the power of the Tenants to pay *in specie* or in Money, as was said. Now by another Constitution belonging to *Jovian* or *Fulian*, and directed to *Apronianus, Præfect* of the City, Money is ordered to be paid in *Campania*, in lieu of all such Flesh; and a Method and Standard is declared as to the Payment: wherein could be no such miscarriage, as in the weight and conveyance of it *in specie*. A Market-rate was to be allowed by the Tenants to the *Suarii*, (who at their own peril should therewith provide Flesh it self for the People) not exceeding six *Folles* for every Pound, (the Silver sort of *Folles* are here to be understood;) which whosoever exacted above, should be bound to pay so much to the Treasury. But whereas it was found by experience, that the Officials of the greater Officers were wont to be burthensome to the Provincials, and make use of their power to harass and fright them out of their Money; Order now is hereby taken, that neither those belonging to the *Præfect* of the City gather this Money, nor the *Suarii* themselves, but the Officers of the ordinary Governor, or the *Consularis* of *Campania*, who at his own peril was to see to the due management of the Levy, and Return of the Money which was to be paid, as the Market went in *Campania* it self, and not as the Price held at *Rome*. And *Campania* here seems especially to be mentioned, both because it served *Rome*, as a mighty Storehouse, with Hogs Flesh, (as also it did with Wine and other things;) and for that it was under the Jurisdiction of the *Præfect* of the City, being part of the *Urbicarian Dioecese*. This Law might well enough be *Fulian's*, and a mistake made in the Date thereof. But another follows, which is rather to be ascribed to his Successors, as contrary to his Humour so violently bent to force persons to the Services of Corporations. "For this Edict dated at *Antioch* on the one and twentieth of *December*, excuseth from such Services such as had served as Souldiers upon the Limits, for the space of ten years, being intended as an Encouragement to them that had ventured their Lives against the *Persian*. In favour of these Souldiers *Jovian* made another Law concerning their gathering of Forage; for as *Fulian*, to enure them to Labour, had yielded they might fetch it at twenty miles distance, that they might not be too much put to it, and be too long from their Colours, he ordains, that they be not forced to fetch it any further.

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Vide Paratit-
lon & L. L. tit.
4. Cod. Th. l. 14.
de Suariis, Pe-
cunariis, &c.

L. 5. Code Decu-
rationibus. Cod.
Th. Abest à Cod.
Just.

L. 9. de Eroga-
tione militaris
annonæ. Cod.
Th. l. 7. tit. 4. &
Cod. Just. L. 2.
cod. tit.

SECT.

SECT. II.

*From the Death of Jovian to that of Valentinian, preceding
the Irruption of the Barbarous Nations into the Empire.
The space of Eleven Years and some Ten Moneths.*

1. **T**HE Body of the deceased Emperor being with due Rites prepared and sent to *Constantinople*, to be interred with his Predecessors; the Army dislodged and came to *Nice*, the *Metropolis* of *Bithynia*. There the Officers falling into a serious Debate about the Election of a new Prince; one *Equitius*, an odd-humoured man, Tribune of the first *Schole* of the *Scutarii*, was named by some few of the meaner sort, but quickly rejected; and after him *Fannarius*, one joyned in Affinity with *Jovian*, and then commanding in *Illyricum*; but he being neither approved because so far off, *Valentinian* was chosen by universal consent, at this time Tribune of the second *Schole* of the *Scutarii*, and left at *Ancyra*, with Orders to follow after *Jovian*. He was the Son of one *Gratian* a *Pannonian* of the City *Cibale*, and surnamed *Funarius*, for that five Souldiers were not able to wrest from him a Rope he carried in his hands: and upon this account being taken into the Army, afterwards arose to great Preferment. Messengers were dispatched away for *Valentinian*, but being at such a distance, for ten days space there was none that sat at the Helm of the Commonwealth; onely *Equitius* and *Leo*, who served under *Dagalaiphus* the *Magister Equitum*, in the Accounts of the Army, took as much care as they could for securing his Interest till his Arrival. Coming to *Nice* he would not stir out nor be seen on the *Bissextile* Day, as unlucky to the *Romans*. Towards Evening, by the Advice of *Salust* the *Præfekt*, command was given, that under Pain of Death none of the greatest Quality, or suspected to affect the Empire, should stir out the next morning: But as soon as it was Light all the Army was drawn together in the Camp, and *Valentinian* ascending a lofty Tribunal was declared Emperour, adorned with the Imperial Habit, and saluted *Augustus*, on the fifth before the Calends of *March*. Preparing to make a Speech, when he stretched out his Arms to gain Affection, a Seditious Noise arose amongst the ordinary Souldiers, who required that another or second Emperor might be chosen. This at first was looked on as a matter of no moment, and procured by some of the Malecontents: but the Stir continuing, and growing more violent, there was just reason to apprehend an universal Tumult. Which *Valentinian* having more cause to fear than any other, yet courageously again lifting up his right hand, adventured to check some he perceived to be more peremptory and unquiet, and after a little disturbance got the liberty of going thorough his Harangue to this purpose.

A.D.

3 6 4

Ammian. 26.

expresseth by
Speech such
as would have
him had a
Colleague out
of hand,

2. I exceedingly applaud my self, and ever shall, you most Valiant Defenders of the Provinces, in the favour you have conferred upon me, by devolving on me the Government of the *Roman* World, when I neither expected nor desired it. What was in your own power, while the Choice was not yet made, you have (I hope) handsomely bestowed, having preferred to the highest Pitch of Honour a Person, whom from his Youth hitherto you have experimentally known to have lived as unblameably, so not without Splendour. Attend therefore quietly, I beseech you, to what (though with mean Expressions) I shall propound to you for the Publick Good. Considering and weighing with my self as a Man, what the heavy Burden of Empire is, and the Multiplicity of Accidents ever attending so great a Charge, I nothing doubt or contradict, but that having a Colleague is very proper for all Events. But we are especially concerned to aim at Concord, by virtue whereof even mean and contemptible Beginnings receive strength and growth. And this will easily be compassed, if you will have but a little patience, and permit me to bridle to mine Implorment. I hope Fortune, that is wont to assist good Counsels, will give me Temper and Moderation, after which I assure you I shall most earnestly aspire. For as wise men say, Not onely in Government, wherein Dangers are both greater and more imminent; but also in private and ordinary Affairs, it may behove a man to unite with one, whom he formerly judged his Enemy, but not esteem him as such, after he is once united with him. On my part I promise you all good Offices, and require that, continuing constant and loyal, you refresh

F f

your

Sect.2. your selves in your Quarters, where you shall speedily receive what is wont to be given after a Promotion of this nature.

A.D.

3 6 4

3. Having ended his Speech, an unanimous Consent was given to what he had said, even by those who had endeavoured the contrary with very much earnestness; and now with Ensigns displayed and a numerous Train he is brought to his Palace. There calling together the Officers as one resolved to follow their Advice, he asked them whom they thought fit to be joyned with him in the Empire. Whereat when all others kept silence, *Dagalaiphus* answered with confidence, That if he bare respect to his Friends and Relations, he had a Brother; if to the Commonwealth, it were convenient that some other should be found out. He was inwardly moved with the liberty of this Speech, but suppressed his Anger, and the second day after his Promotion he set forward, and with speed marched to *Nicomedia*, which he entered on the first of *March*. Here he set over his Stable his Brother *Valens*, with the Dignity of *Tribune*; but departing to *Constantinople*, there considering the weight of his Affairs, as an ease to his Burthens he resolved no longer to defer it, but on the twenty seventh of *March* bringing him forth into the Suburb *Septimus*, (so called from being seven miles from the City, where *Valens* adorned the Tribunal with Marble Stairs and Tables, and generally it was used thenceforth by succeeding Princes as the place of their Coronation;) he declared him *Augustus* with universal consent, for none dared to oppose it. Thus promoted he carried him back with him in his Chariot, habited with the Imperial Robes and Diadem, which signified him to be equal with him in Power, though he obeyed him more like some *Apparitor* in the Judgment of *Ammianus*. The Solemnity being over, both Emperors were seized with violent Fevers, which held them long, but both recovered; and then, as they were far more dexters at making Inquisition, than at composing of matters, they gave in charge to *Ursatius* the *Magister Officiorum*, a cruel *Dalmatian*, and *Fruventius Siscianus* the *Quæstor*, to make inquiry into the Cause of their Distempers; out of design (as *Ammianus* and *Zosimus* will have it) to cast dirt on the Memory of *Julian*, as having been bewitched by his Friends; but the thing came to nothing, no Discovery at all being made. Now at this time it was, that as if an universal Alarm had been sounded throughout the Empire, the fierce and barbarous Nations round about arose, and invaded the neighbouring Limits. The *Allemans* at the same time wasted *Gall* and *Rhatia*, the *Sarmata* and *Quadi* infest *Pannonia*, the *Picts*, *Saxons*, *Scots*, and *Attacors*, with continual Miseries afflicted *Britain*; the *Austoriani* and other *Moorish* Nations troubled *Africk* more than ever; roving Companies of *Goths* made Depredations in *Thrace*; and the *Persian* King began to lay hold on *Armenia*, pretending that after the Death of *Fovian*, with whom it was that he had entered into a League and concluded a Peace, nothing ought to hinder him from recovering what had belonged to his Predecessors.

He assumes his Brother *Valens* for his Collegue.

The Barbarous Nations up on all sides

The Emperours lying at *Constantinople* take care for the victualling of that City and *Rome*.

4. The two Brothers and Emperours spent thirty days in *Constantinople*, and therein applied themselves to the Reformation of such Abuses as were represented to them. We formerly signified how *Constantine* the Great, to encourage such as built and inhabited his new City, assigned a large quantity of Bread to be distributed to the Inhabitants. Hence is this Bread termed in the Edicts of Princes, *Bread of Houses*, *Bread of Buildings*, and the like, to the Houses it being fixed and appropriate for their Maintainance and Repair. This was the sense of *Valentinian*; and such, by a Constitution bearing Date of the twenty seventh of *March*, he declares it and ordains, that it be lawful to none to sell their Houses, and yet reserve the Bread to themselves. In case any Houses were depopulated, or by any means fell to ruine, and this Bread came to have no Owner, he declares that it falls to the Treasury. Partly from this, but especially from many other Laws, it appears how great the care and endeavour of *Valentinian* was, for the due ordering of this Charity of *Constantine*, and also for supply of both *Constantinople* and *Rome* with Provisions. For supply of these Cities much Corn was yearly brought from *Sicily*, *Egypt*, and elsewhere, as we have already said; and laid up in the publick Granaries: the Overseer whereof was the *Praefectus Annone*, who was under the disposition of the *Praefect* of the City, as the *Notitia* sets him. Now for the better ordering of these Provisions *Valentinian*, by another Edict of the eighth of *April*, directed to *Volusianus* the *Praefect* of *Rome*, commands that his Officers should have nothing to do with the said Provisions. In the next place, that he the *Praefect* should do nothing without the advice and consent of the *Praefectus Annone*. Next, that the old Provisions, or such as had been laid up in the foregoing *Praefectship*, should be spent before the new were touched. Again, if the old Corn was so spoiled, that it would not sell without complaint and disturbance, new should be mixed with it. And for

Panes' Edictum.
L.1. de Annonis Civibus, Cod. Th. Panes cad

Publica Hiera.

L.1. de Coctis in publicis Horreis, Cod. Th. l.1. tit. 14. & l.1. Cod. Just. tit. hinc de sumpta est cisa huius prima sententia velut tem
the *lud.*

Sect. 3. the better performance of all that was enjoined, he will have the *Prefect* himself make "choice of a Keeper and Measurer, who in respect of his honesty and prudence may "be fit for such a Trust. Some Interpreters have been mistaken in several respects about this Law; in taking this Bread to be the same with the *Panis Gradilis* or that which was bestowed freely by the Emperours upon the People; whereas it is to be understood of such Corn and Provisions as were provided only for supply of the City, but sold out at reasonable Rates. And they think this mixing new with old Corn, to be against the Rules of honesty, whereas it is still practised in other States, and then the grain is sold to the Bakers. And whereas this Law is dated with the Consulship of *Divus Jovianus* and *Varronianus*, and yet bears in its Front, for Authors, *Valentinian* and *Valens*, there's one that goes about to reconcile this great difficulty, by this salvo, that *Jovian* first made the Law, but his sudden death hindered the publication of it; and therefore the following Emperours now effected it. But though *Jovian* and *Varronian* were both dead; yet was it the custome to have the Consulship of the year, still noted by their Names; only with distinction of the word *Divus*, to shew them deceased.

A. D.

3 6 4.

Amaya quem
refutatum vide
a Goth. in
Com. ad b. l.

They make a
Partition of
their Officers,
and march,

5. From *Constantinople* the Emperours passed through *Thrace* to *Naissus*, and in a neighbouring Village called *Mediana*, distant some three miles from the City, being now quickly to part asunder, made a Division of their Officers. *Valentinian* took to himself *Jovianus*, who not long since had been by *Julian* advanced to be *Magister Armorum*, in *Gall*, as also *Dagalaiphus*, who had been preferred by the late Emperour to the like Command. To follow *Valens* into the East, was *Vitor* appointed, one whom he had also promoted, and with him was joyned *Arintheus*; as for *Lupicinus* he had been also by *Jovian* already made *Magister Equitum*, for defence of the Eastern Parts. To *Equitius* was given the Command of the Forces in *Illyricum*, and *Serumanus* though out of Service, was again taken in, and girt with the Military Girdle, because a *Pannonian*; and being appointed to wait on *Valens*, was set over the *Schole* of the *Domesticks*. They also divided the Forces of the Empire, and being come to *Sirmium*, each now furnished and attended, as pleased *Valentinian*, he departed toward *Milan*; and *Valens* the contrary way, toward *Constantinople* and the East. Thus much *Ammianus* tells us in short, not mentioning in express terms the Division of the Empire, which yet is easily to be concluded from this Relation. It's evident enough from that and other passages, that *Valentinian* reserved all the West (which had fallen to the share of *Constantine* the younger, and *Constans*) to himself, viz. all *Illyricum*, with *Macedonia*, *Italy*, *Africa*, *Gall*, *Spain* and *Britain*; and to *Valens* his Brother, left all the East, with *Thrace* and *Egypt*; which Division is to be retained in mind, as for other Reasons, so especially, for a distinct knowledge what Laws after their parting asunder, had *Valentinian*, and what had *Valens* for their Author; for according to the Custome, though a Constitution was made by one Prince, without the knowledge or concurrence of the other, yet it bears the Names of both, and his in the first place who was Senior in the Government. But, before we come to speak either of the Laws, or other Acts of them when parted, we must acquaint the Reader with other Edicts made by them while still together in their Progress through *Thrace*, and the quarters adjoining.

Valentinian
Westward
toward
Milan, and
Valens toward
Constantinople
Eastward.

How the Em-
pire was divi-
ded betwixt
them.

6. The first in the *Code* which bears date after those made at *Constantinople*, is an Edict said by the Subscription to have been dated at *Antioch*, which is not to be understood of the great City of *Syria*, but an Island of this Name near the City of *Constantinople*. This relates to the Provisions of the Army (in the care whereof it appears not only from the Laws, but History, that *Valentinian* was very accurate) and ordains that the *Domestick Protectors*, who not only waited on the Prince, but served also in the defence of Places in the Provinces, and in this respect were under the disposition of the *Magistri Militum*, should have theirs allowed them according to the Market Rate, in money by the *Prefect* of the City of *Rome*, to whome the care of such matters belonged. As he was very careful that such as were in service should be duly supplied, so by consent of all Historians, he was a most severe Exactor of Military Discipline, and that appears also by his several Laws concerning this Subject, wherein he imitated the prudence and justice of a Master toward his Servants; who as he is careful they want nothing, but have Wages duly paid them, so strictly requires that his work be not neglected. His first Edict of this nature, bears date from *Hadrianople* on the twenty ninth of April, and seems to have been occasioned by what *Ammianus Marcellinus* writes concerning the Barbarous Nations; at this very time infesting the Empire on all quarters, and particularly the *Goths* their troubling of *Thrace*, where now the Empe-

l. 10. de Ero-
gatione mili-
tariis Annone
Cod. Th. lib.
7. Tit. 4. De
Kal. Maii.
Antiochie Di-
vo Joviano
& Varronia-
no Coss.
Abest a Cod.
Juss.

A Law made
by them,
while toge-
ther, for the
better provi-
sion for Soul-
diers.

Sect. 3.

By another
they call the
Sons of
Veterani into
the Field.Much zeal
they shew for
the services of
the *Curia*.Encourage the
Navicularii.

rouers were in motion. The *Veterani*, or *Emerite* Souldiers, as we formerly hinted, enjoyed such great Privileges, that when there was any vehement occasion which pressed the Empire to a greater, and more sodain supply than ordinary; their Sons were called out to service, and that as is thought, first by an Edict of *Constantine* the Great, upon occasion of the *Sarmatian* War; whose Example his Successors followed, by publishing their Letters of Summons throughout the Cities, upon such emergencies. This now doth *Valentinian*; and to encourage them, declares, that they shall have the Pay, not usually given to *Tirones*, or new raised men, but such as was due to those that had served a longer time; which was larger than the other: If these Sons of the *Veterani* were unfit for the Wars, by reason of their want of health, the inability of their Bodies, or the unproportionableness of their stature or limbs, that then they should be bestowed in other Employments, as amongst the *Officiales* of the *Proconsuls*, *Consulares*, *Correctores* and *Presidents*; in case they refused to serve in the Wars, having none of these defects nor excuses, he subjects them to the services of Corporations; but not such as were utterly rendred unfit by any disease, or other necessary Impediment.

19. For the service of Corporations, he shewed also much Zeal, the Splendour of them, as he himself saith, being a thing very acceptable to him; and in order to this, the very next Edict, now mentioned in the *Code*, was ordained by him. But he proceeded in a middle way, without those extravagancies committed by *Julian*. For the nomination of the *Curiales*, he thought fit afterwards, that none should be made such, but those that were chosen by the *Curia* themselves; insomuch, that by way of punishment he would have none condemned to those Offices, no not the *Tabularii*, who in due time had not given up their Accounts. But even Merchants themselves, if they were owners of any Lands, he permits to be nominated to these Services, and commands the Sons of the *Veterani*, who had been *Curiales*, to be appointed to these Employments. The Employments, or Burthens, he will have by degrees imposed on the *Curiales*, and not for them to begin with the greatest. From them none should be excused by any Dignity: namely, that no *Curialis* should be admitted a *Senator*, or enjoy the privileges of that Order, till such time as he had passed through all the Offices, nor be received to the Government of a Province, except he had obtained both *Senatorian* Dignity, and the Government together, or been privileged by some *Palatine* service; and even then he must substitute his Sons in his room. By warfare none should excuse himself, except he had therein served five years, and yet, in such case his Sons must also attend the service of the Corporation for him. Not by being in Orders, without passing away his Estate to let it should succeed him; or to the *Curia* it self. Neither by betaking ones self to the Body or Company of those belonging to the *Fabricks*. The Privileges of the *Curiales* this Emperour also Confirms; and especially of those that Exercised amongst them the Pagan Priesthood, or were Principals, saving them harmless from all injuries, and dispensing with them from being forced to appear any where beyond the bounds of their own Corporation. These and other particulars appear in those eighteen several Constitutions made by *Valentinian* concerning this Subject, and still extant; from consideration of which *Gothofred* justly wonders both at *Libanius*, and *Ammianus Marcellinus*, who with so many words complain of the desolation of Corporations, after the death of *Julian*; which they will have to have been so great, that amongst them but one *Curialis*, or three at the most, were remaining. What Accidents might happen in some certain places, in so vast a Compass as that of the *Roman* World, none can determine; but in general, we are to believe the Laws still extant, rather than heed their great Zeal to the memory of their *Julian*, who also was out, as to this point of Government, and that by the confession of the most ingenuous of those two Persons.

20. And many other things there were innovated by him, which *Valentinian* now found reason to repeal; and, at the beginning of his Reign, to put them into their former course. From another Law made at *Hadrianople*, in the thirteenth of *March* it should seem, that He had lessened the Privileges of some of the Companies appertaining to the City of *Rome*, and particularly of the *Navicularii*, of whom some belonged to *Africa*. It was their work to bring wood for the supply of the Bathes, and other publick services of that City, which not being in capacity to be well furnished, but by encouragement of those whose duty it was to convey such necessaries, *Valentinian* now renews the Privileges formerly granted to them, as not long after by another Edict, all Immunities whatsoever which had been given to any Bodies or Companies of *Rome* by the old Laws, or any of his Predecessors. As most Emperours, who expressed zeal for the Publick Service,

A. D.

3 6 4

L. 5. de remiliti
ricod. Th. lib.
Tit. 1. Dat.
Kal. Mai. h
drianopoli I
uo Juuiano
Farroniano
Coss.L. 57. de De
curionibus
de Gothofr.
L. 6. in L
de Cobortalii
Cod. Th. lib
Tit. 4.vide quæ a
Goth. in L
de Navicul
riis.L. 1. de Pri
corporatoru
urb. Romæ.
Th. L. 14. T.

were

Sect. 2.

regulate the
Cursus publi-

the Power of
the Præfetti
Prætorio in-
creaseth.

Valentinian
takes care for
providing
corn of Ne-
cessaries.

were wont to have a special regard to the *Cursus publicus*, to direct the use thereof, and prevent the too great Burthen of it. So he by eighteen several Constitutions demonstrated his care as to this particular, of which eighteen no fewer than eleven he made within the bounds of very little more than one and his first year. By one directed to *Symmachus*, *Præfekt* of *Rome*, he abridges the Liberty formerly used by him or his Predecessors, in granting the use thereof, restraining it only to necessary cases, wherein Power was also wont to be given to Governours of Provinces, to grant the same Licence. But from this as well as other Instances may be seen, how contracted the Power of the *Præfetti* of the City was at this time, when that of the *Præfetti Prætorio* daily increased. Had not *Constantine* lessened their Authority, how dangerous it would have been to those who bore the Title of Emperours, evidently hence appears; that notwithstanding the Diminution, yet again they got very much ground in the Advancement of their Power. About this very time by several Laws *Valentinian* confirms the Custom of their examining such Petitions or Complaints, as were to be sent to himself from the Cities or Provinces, requiring that first they should be brought to the Governours of the Countries or ordinary Judges, and there be entered in their Offices; but thence transmitted, without any alteration or diminution, to the *Præfektus Prætorio*, who examining the matter, should therein take order of his own Authority, if it might be done; or else, transmit them to the Emperour himself, if he thought them fit for his notice. If so he doth, he will have but one Messenger of the City or Province to come along with the Missive, both for saving Expence, and to prevent the Burthening of the *Cursus publicus*. Yet sometimes, as appears by History, more Persons were wont to be sent on those Errands.

21. But amongst the Laws he made at this time, very remarkable is one large Constitution, whereby he demonstrated his extraordinary care for supplying with Victuals the City of *Rome*, which now, as we may therefore collect, was under some pressure in reference to Provisions. "Therein he takes order that the People shall be served with good Bread, regulates matters belonging to the publick Bakers, who were a Company obliged (both they and their Children) to this Service; provides for the supply of Corn, the Repair of the publick Granaries, and the Privileges of those who burnt the Lime for such publick uses. There was yearly a great quantity of Grain brought to *Rome* out of *Africa*, *Sicily*, and *Sardinia* especially; of which some (as we have already hinted) was made into Bread, and gratis bestowed on the People by the Emperours, called *Panis Gradalis*, and the rest was sold by the Bakers, and with it made that styled *Panis Ostiensis*, who had their Store-houses in the City for the keeping of it, (at this time about three hundred.) "And of this *Valentinian* orders two hundred thousand *Modii*, and no more, of the very best, to be sold them at reasonable rates, that they might not obtrude ill Bread upon the Citizens. Further, lest any Deceit should be used in the Conveyance, he will have the Corn to be carried by the ordinary Porters belonging to the Wharf, and that there might not want Assistance at the Bakehouses, as *Constantine* the Great had ordained; That such as were condemned for lesser Crimes should be sent to those Houses, he renews or reinforces the Law in this particular. And this same year upon his travelling Westward, when he granted a General Pardon and Indemnity, he yet excepted out of it such as had been condemned to this Drudgery. And lastly, lest any of the Corn wont to be brought to *Rome* should be interverted, he absolutely forbids any Money to be received in the room thereof. All this Endeavour for supply of *Rome* was promoted by *Symmachus*, who was now *Præfekt* of the City, to whom these Laws are directed, and of whom *Ammianus* gives this Testimony, That having succeeded *Apronianus*, he made all things more plentiful therethan usual, and built a strong and most beautiful Bridge, to the great contentment of the People. This we must conclude was with the knowledge and consent of the Emperour, because this very year, by another Edict directed to him, he forbids any new Work to be raised in that City without his Order, although he gives free leave to repair any Building that was decayed.

22. But though such was his Resolution in relation to *Rome*, which being too great already, there was reason to restrain the Extravagancy of Building, he made shortly after another Law, importing a quite contrary Command, because relating to another place, and for a quite different reason. He and his Brother now lay at *Naissus* or *Mediana*, three miles distant from it, and near to that part of *Dacia* called *Dacia Ripensis*; but now they were ready to part, the Barbarous Nations were all up round about, and these Quarters were threatned with the Inrodes of the *Goths* amongst others. For the safety of them therefore he directs an Edict to *Tantomades*, the

A.D.

3 6 4

L.L. 27, 18.
C.C. de Cursu
publico, Cod.
Th. 1.8. tit. 5.
L. 19.

L.L. 3, 4. de Le-
gatus & Dece-
tis, C.C. Cod. Th.
1. 12. tit. 12.

L.L. 3, 4. de
Pistoribus. L. 2.
de calcis Costo-
ribus. Vide
Chronol. legum.
ad An. 364.

Canon Frumen-
tarius.
L. 1. de Canone
Frumentario
urbis Romæ,
Cod. Th. 1. 14.
tit. 15.

L.L. 5, 6, 7. de
Penis, Cod. Th.
1. 9. tit. 40.

L. 8. de Anno-
na & Tributis,
Cod. Th. 1. 11.
tit. 1.

L. 11. de Operi-
bus publicis,
Cod. Th.

Sect. 2.
For repairing
and raising
Forts upon
the Borders.

The *Allemani*
break into the
Empire.

Procopius u-
surps in the
East.

Valentinian
thinks to go
against him.

But is divert-
ed by his At-
tendants and
the Cities.

the *Dux* of this same *Dacia*, bearing Date of the nineteenth of *June* from *Media-na*, and therein commands him both to repair the old Towers or *Burgi* that were in his Limit, if any there were that needed it; and further to build new ones in all convenient places: which if he neglected to do, he tells him, that when the time of his Command shall be expired, he shall be compelled to raise up such at his own Charge, as he neglected to build by the Labours of his Souldiers, and at the publick Charge, during his Government. That these Towers or *Burgi* were wont to be built upon the Limits, hath already been said; and this may be added, that usually it was by the Manual Labour of the Souldiers, who at idle times were employed upon such like Works as fortifying of places, or making common Causeys or High Ways into the Provinces. And about this very time from Inscriptions it appears, that such Towers were raised in several places by the same means. *Salust* was now *Præfectus Prætorio* of the East, *Mamertinus* governed in the same manner *Italy*, *Africa*, and *Illyricum*; and *Germanus* had the oversight of *Gall*. *Valentinian* being gone to *Milan*, and *Valens* to *Constantinople*, both of them took Consular Ornaments: but all this year the *Roman* Empire was grievously distressed: For the *Allemani* brake thorough the Limits of *Germany*, enraged for that their Embassadors sent to the Court had brought back far less Gifts and Presents than had been usual; which therefore they cast away, and in scorn and indignation trode upon them. *Ursatius* the *Magister Officiorum* dealt something roughly with them; being an angry severe man, which they returning home aggravated as a mighty affront, and irritated thereby these most fierce Nations. And about the same time *Procopius* in the East endeavoured to usurp. The knowledge of all which was brought to *Valentinian* as he was travelling toward *Paris* about the beginning of *November*.

23. Against the *Allemani* he sent *Dagalaiphus*, who had but little work at present, they being timely retreated after they had done what mischief they could. But as for the Rebellion of *Procopius*, he knew not what to do in that matter, not being certain whether he had usurped upon the Death of his Brother *Valens*; so lame was the Intelligence he had received from *Equitius*, to whom the Information was sent by one *Antony* a Tribune, who commanded in the Midland *Dacia*. He conferred on *Equitius* the Dignity of *Magister*, and designed to march presently into *Illyricum*, lest the Usurper should seize upon *Pannonia*; for he remembered with what speed *Fulian* overran all those Parts, when he set up for himself against *Constantinus*. But those about him remonstrated, how by leaving the West he must necessarily expose *Gall* to the Inroads of the Northern Nations; and the Cities sent their Messengers to pray, that he would not forsake them in this their necessity, when his very Presence and Name would be sufficient to awe and restrain the Fury of the Barbarians. And he yielded to their Request, being convinced by their Reasons, often saying, That *Procopius* was but Enemy to him and his Brother, whereas the *Allemani* made War upon the Empire. Resolving then not to stir out of *Gall* he went to *Rheims*, and now being solicitous about *Africa*, lest any Attempt should be made upon it, he sent away *Neotherius*, who at present was no more than a *Notary*, (though afterwards he arrived at the Dignity of *Consul*.) with one *Masauicio*, a *Domestick Protector*, who was well acquainted with all the dangerous places of that Province; and *Gaudinius*, one of the *Scutarii*, whom he had long known to be faithful to him. Now *Ammianus* finds himself even harassed betwixt the Affairs of the West and the East, which happening at the same time, he is at some stand in what method to relate them. But we must needs take notice, that of the Journey of *Valentinian* into *Gall*, he saith as good as nothing, nor of the long stay he made in *Italy* before he came thither, which we find by the Dates of many Laws; and by these Laws we can trace his steps whithersoever he moved. For though nothing passed all this while, of which *Ammianus* thought fit to take notice; yet in many things, and of moment, he took order, which related to the Civil Government, and provided for the Safety and Interest of the several parts of the Empire by various Edicts, out of which we must observe so much as is material for our purpose: As great advantage coming to the Reader from the knowledge of such Passages, as from the Relations of Wars and Commotions, with which most Historians satisfy themselves.

24. As he proceeded in his Journey toward *Italy*, he took *Arelape* and *Emona*, two Cities of *Noricum*, in his way; and being arrived at the later, he resolved not to omit the Acknowledgment usually made of a Prince at his first coming to the Empire, by the payment of that Gold called *Aurum Coronarium*, of which we have already spoken. By an Edict directed from this place, on the twenty eighth of *August*, to

A.D.
364
L. 13. de op
bus publici
Cod. Th. Abi
Cod. Just. q
temporaria
historica est
Vide Gottho
in L.

ect.2. to Mamertinus the *Præfectus Prætorio*, he requires that payment of this Gold " be made by all; *Senators* and some few others excepted, who had been privi-
leged by a Law he mentions, not now extant. For it being a mark of subjec-
tion, the *Decuriones* were only subject to it, not *Senators*; for the honour of whom
Princes had a great respect, as accounting them part of their Body, and who had a
payment of their own peculiar to them, viz. that called *Glebalis Collatio*, and another
sort of Gold known by the name of *Aurum Oblatitium*. Indeed the state of the Empire
was such at this time, by reason of the motions of Barbarians, that it had required
all Supplies that fairly might be procured. Therefore in this year so dangerous,
were published two several Edicts for the payment also of the *Lustralis Collatio*,
or the *Chrysargyrum*, sometimes exacted from Traders or Merchants, falsely by Zo-
simus said to have been invented by Constantine the Great. There were, it seems,
three sorts of Persons that traded, which held themselves excused from this pay-
ment, viz. the *Palatines*, or such as belonged to the Emperours House, *Clerks*, or
Ecclesiasticks; and others that bore themselves high upon their Places and Dignities.
But the Emperour Valens, by one Edict commands that none of them all should
be favoured; not the first, because this money did not concern their service or at-
tendance at Court, but their Traffick, which was the thing obnoxious to it;
not the second sort, because if they were good men, they did not traffick for them-
selves, but to assist the poor and needy; and as for the great ones, they ought
not to play the Merchants, or, if they did, they were best able to pay, and ought
to do it in the first place: This first Edict was made at Constantinople, on the se-
venteenth of April, but there was need to re-inforce it again by another dated
on the eighth of September, wherein the Emperours signifying, that they had
made an Indiction, as the Phrase was, or laid such an Imposition of Gold and Sil-
ver upon Traffickers, they expressly declare that, none shall plead any privilege
from it; for as much as they had commanded all persons whatsoever, of what De-
gree soever, to undergo this burthen for the assistance of the Commonwealth,
none being to be admitted with their Exceptions, but those who sold only their
own growths, such as they had upon their own Lands, without buying on pur-
pose to sell again. For here as we formerly said, lies the difference; none being
to be esteemed Traders or Merchants, but such as buy and sell the same Com-
modity.

25. Much about this same time he variously provided for the Relief of the Pro-
vince of *Byzacena* in *Africk*; by restraining of Informers, (whom a year after he or-
dered as Enemies of Mankind, to be punished with death) and of those that quitted
the services of their Corporations; and whereas such as held that sort of Lands
called *Emphyteuticarii*, were liable to a double Payment, viz. of Corn, and of
Gold; that of Corn he would have paid at three several times in the year, be-
cause they were supposed to have it ready by them, but Gold at what time in
the whole year they could best do it; for it was not to be supposed they were
provided of it; but when they had sold off their Corn. As he took care for the ease
and relief of the Provincials of *Africk*, so being come to *Aquileia*, much more for
them of *Italy*; for the benefit of whom he published, the remainder of this year,
many Constitutions, whereof the first to *Artemius* now *Corrector* of *Lucania*, whom
he taxeth for having neglected the actings of some things according to the Rules
he had prescribed. In this large Constitution, divided now into several Laws,
he gives order for the maintenance of the Privileges of his *Palatines*, or Courti-
ers, as that they should not be forced to be *Susceptores* or Receivers of Tributes;
as neither such as served in the Offices of the *Magistri Militum*, whom he de-
clares to be of the nature of Souldiers. He forbids the Exactions usually made
upon the People, by these whose work it was to look to the Waggon, and Beasts
belonging to the *Cursus Publicus*, but especially concerns himself, for the due
Administration of Justice. To this end he commands that a Judge have a special
care that He hear no Causes, either *Civil* or *Criminal*, in any By-place, or private
Room; but when he gives Sentence, it shall be upon the Bench, the doors of the
Secretarium being open, and Access given to all Persons. For the place where the
Judge or Governour of a Province heard Causes, was called by the Name of *Se-
cretarium*, as that of the Emperour, *Consistorium*; It being by a Velum or Hanging
closed, for keeping out the multitude when there was occasion for Consultation,
or any other Act that required privacy after the Debate of the matter was over.
He further reprehends a fault which was common in those daies, and from which
the gravity of Judges was not a sufficient Bar, and that was haunting of the The-
atres, to gaze upon the *Specacula*, or publick Shows, whether when made at the

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3 6 4.

l. 2. de *Auro*
Coronariis Cod.
Th. lib. 12. Tit.
13. Dat. 5. Kal.
Septemb. *Emma-
ne* *Divi* *Jo-
viano* & *Var-
roniano* *xx. c. c.*
Cods. *Abest à*
Cod. *Just. l. l.*
5. 6. de *lustrali*
Collatione.
Cod. *Th. lib. 13.*
Tit. 1.

l. l. 9, 10. de
Petitionibus
et *Cod. Th. lib.*
10. Tit. 10.
l. 3. de *Collati-
one* *fundorum*.
Cod. *Th. lib. 11.*
Tit. 19.

vide *Chrono-
logum* *hujus*
Anni.

l. 2. de *Officiis*
Recltoris *Pro-
vincie* *Hanc*
Antimi *Caris-*
sime *nobis.*
Dat. *Cal.*
Octob. Aquileia
Divi *Jo-
viano* & *Var-
roniano*
Cods. *Abest à*
Cod. *Just. l. l.*
Cods. *Th. lib. 11.*
Tit. 19.

charge

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charge of others, or afforded to the People by the Judges themselves. Moreover there was great Robbing practised at this time in *Italy*, which indeed never was, nor at this present is free from *Banditi*; for prevention whereof, when other means failed, *Valentinian* resolved to forbid even the Use of Horſes, as that which eſpecially conduced to the motions of thoſe ſudden Incurſions, and the ſpeedy retiring of the Thieves to their lurking places. The Uſe and having of Horſes he prohibits to all the Inhabitants of theſe Provinces, viz. *Piconum, Flaminia, Apulia, Calabria, Brittii, Lucania* and *Samnium*, five ſorts of Perſons excepted, theſe were *Senators*, the *Honorati*, the *Governours* of Provinces, the *Veterani*, or *Emerite* Souldiers, and *Decuriones*, the ſeveral ranks and conditions of whom he concluded would put them upon higher deſigns than thoſe of Robbing. Particularly, the *Honorati* were ſuch as had born Honourable Offices, whether Military or Civil, were not of the *Curiæ* or Corporations, as ſome have miſtaken; but others, to whom were equal in Dignity the Principals or *Primates* in the Cities, though ſometimes the *Honorati* be alſo compared with *Senators*. For thoſe in the Country, or the *Provincials* as they are ordinarily called, were uſually diſtinguiſhed into the three Ranks of *Honorati*, *Decuriones*, *Poſſeſſors*, or Frecholders, and *Coloni* or Tenants. But beſides the true and Original ſort of the *Honorati*, who had born Offices, there was another which obtained this Degree, by the Letters Patents of the Prince. Both ſorts had many Privileges, as of entering the Towns and Cities in their Chariots, Leave to come to the Senate-Houſe, and ſitting on the Bench with Judges, except they themſelves had Cauſes to be heard. In this Caſe, *Zeno* the Emperour appointed them a place below the Judges, but above the common Croud; as is now practiſed in *France* towards Princes themſelves, when their matters are heard in the Chambers of Juſtice. But as to this Law againſt the Uſe of Horſes, it ſeems to have been chiefly occaſioned by the great Drowes of Cattell, with which ſome of theſe Countries, to which it hath relation, very much abounded. And for this Reaſon, five days after the Date of it, by another Conſtitution, he provided for the ſecurity of *Campania*, which pleaſant and fruitful Countrey was alſo full of Cattell, and ſerved *Rome* with Proviſions. To prevent the ſtealing and driving of them away, he forbids the Uſe of Horſes, both to thoſe that looked to his own Herds there, and to the Stewards and Officers of *Senators*, who were apt to bear themſelves high upon the Grandeur of their Maſters, and prohibits the travelling abroad with any ſort of Weapon to all in general; ſuch only excepted as ſhould obtain Leave of wearing them from himſelf.

Honorati, who they were.

The Uſe of Horſes forbidden.

Except to Souldiers.

Great Privileges and Immunities to *Veterani* or *Emerite* Souldiers.

26. But ever muſt it be ſuppoſed that Souldiers were alſo to be excepted from this Inhibition, who were not bound to lay down Arms, till diſmiſſed by Authority, or that they had ſerved up their time, and were become *Emerite* or *Veterane*. To theſe either he or his Brother had now an eſpecial regard; and as they deſerved maintenance and due Incouragement, to fix and aſcertain it, they publiſhed another Conſtitution, at the latter end of this year, whereby to all their Subjects, or *Provincials* in general, they made known the Confirmation of ſix ſeveral Privileges, or Inſtances of their Munificence unto them. The firſt is that they may chuſe their Habitation where they pleaſe; which to all it was unlawful to do without the Indulgence or Leave of the Prince. In the ſecond place they give them Immunity from all Civil and Perſonal Charges or Services, or rather confirm that which had been granted by former Laws. In the next they permit them to ſeize to their own Uſe any Vacant Lands as they were termed, or ſuch as were dereliſt or owned no Maſters, which, within ſo vaſt a compaſs as, that of the *Roman Empire*, muſt often fall to the Publick, and for theſe Lands, or others they poſſeſſed, they ſhould pay no Rent, or yearly acknowledgement. And fifthly, for the improvement of thoſe grounds, they ſhall receive at the publick expence, from the *Governours* of Provinces, both Cattell to till, and Seed wherewith to ſow them, which proviſion *Conſtantine* the Great, had formerly made, but not in the ſame proportion. For whereas he, without any diſtinction, had ordered to each *Veterane* one yoaſ of Oxen, and an hundred *Modii* of Corn; they by this Edict both increaſe the Allowance in ſome ſort, and make a difference of Perſons, allotting to ſuch as had the Dignity of *Proteſtors*, two pair of Oxen, and an hundred *Modii* of Grain, and to the reſt one pair a piece, and fifty *Modii*. For ſuch as enjoyed the honour of *Proteſtors*, were in ſeveral reſpects more privileged than the reſt: In criminal Cauſes they were not judged by the ordinary Magiſtrates, but by the *Prefectus Prætorio*, and had larger Immunities both from that called *Iuſtralis Collatio*, and the ordinary *Cenſe*. And in the laſt place, they grant them Immunities for their Slaves, and Families, which they ſhould bring upon ſuch Lands

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L. 1. Equibus quorum uſus conſeſſus eſt &c. Cod. Th. l. 9. Tit. 30. Ab a Cod. Juſt. u. ceteræ omnes leges hujus tuli.

De Honorati: vide ſupius a ſerentem Got ad L. un. de Officio Judic. c. l. ium Cod. l. lib. 1. Tit. 8

L. 2. Quibus quorum uſus &c. & L. un. Quorum uſu interdicitur lex unica. Cod. Juſt. cod. tit.

L. 8. de Veteranis Cod. Th. 7. Tit. 20. l. 15. Kal. Dec. Divo Jovi. & Varroni Coſs. vide c

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Lands. This Constitution containing a more full Enumeration of the Privileges of those old Souldiers, of whom and of which we often make mention, is more than ordinarily to be taken notice of.

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15. As *Valentinian* hereby took care for the Reward of such as had well deserved of the publick; so by another Edict dated a few days after, he provided against the immoderate punishment of such as had been offenders against the Laws. *Constantinus* had formerly granted the Estates of condemned persons, the Crime of Treason onely excepted, to their Children if any could be found within three Degrees or Descents; but he by this Edict extends it to all their Posterity without exception; so as not onely *Posthumi* are thereby included, but even all Descendants *in infinitum*. And now this year, which still bore the Names of *Fovian* and *Varronian* his Son, drew to an end, and gave way to the first Consulship of the two Brothers. It was the Custom, that upon the Designation of new Consuls Messengers were wont to be sent into the Provinces with the News; as also upon any other occasion of publick Joy, as of a Victory, the Triumphs of the Emperours, making of Peace, and other matters. These Messengers were also wont to exact Money as a Reward from the poor and mean, as well as from the rich, which was termed *Sportula*; and this was also wont to be taxed or levied by the Governours of the Provinces, which proved a great Vexation and Burthen to poor people, as *Ammianus* complains of it in the time of *Constantinus*. If Credit may be given to the Flourishes of *Libanius*, *Julian* had reformed this Abuse, although no Laws we find of his made upon this subject: However it was now become so grievous and intolerable, that *Valens* lying at *Constantinople*, sixteen days before he entered upon the Consulship, thought fit by an Edict to obviate this impending Mischief. Thereby he commands, that when upon occasion of any new Consuls such Messengers were sent abroad, upon their behalf no Imposition should be laid, nor any one dare to exact or require any Contribution. Indeed if any of the *Honorati* or *Curiales* would of their own accord give any thing, they might freely do it. In case any Governour of a Province laid any such Imposition, suffered it to be exacted, or connived at any person offending against this Law, he fines him in twenty pounds of Gold, and his Officers in forty. Now this might have its desired effect upon the Eastern Parts, and in the District of *Valens*: But it seems it reached not that of *Valentinian*, nor had that Operation to prevent another Edict of his, which bears date on the eleventh of *January* following, and consequently of his assumed Consulship. By this Law, to the Message about new Consuls he adds Victory, which probably at this time he had obtained over the *Allemands* in *Gall*, and other publick Rejoycings: and as to the Penalty, will have the Governours pay the double of what was given, and their Officers four fold. And this by a second Constitution dated from the same place, after four years he reinforces; but neither in it, in this whereof we now speak, nor that preceding of *Valens*, is there any Penalty laid upon the Messengers themselves: Which Defect being justly to be wondered at, *Theodosius* the Great afterward supplied. Observable it is, that to those *Apostles* or Messengers of good tidings, the word *Euangile* or Message of good tidings in the Gospel alludeth, and many things contained in the Scripture, wherein *S. Paul*, in the Prefaces to his Epistles, shews how far that of our Saviour excels all other *Euangles* whatsoever, it proceeding not from any mortal man, as was the *Roman* Emperour, but from God himself; not concerning any sudden Accident lately befallen, but what was long expected, not concerning any Earthly Kingdom, or the Birth of an Emperours Son, but an Heavenly one, and the Son of God, with other Instances noted by Learned *Gothofred*, out of that Apostles Writings.

16. About this time some Entercourse passed betwixt *Valens* and the Nations bordering upon *Aegypt*, without the Pale of the *Roman* Empire. For, four days before his Entrance into the Consulship, or the twenty eighth of *December*, he signed an Edict to *Victor* the *Dux* of *Aegypt*, importing an Order to seal up the Pacquets of such Embassadors as should come from them, that they might be brought safe to his presence, and opportunity of adding or inserting any thing into their Letters or Instructions of the *Reguli* which they brought, might be prevented. By these Nations or *Gentiles*, as the Law calls them, must be meant the *Axumita*, *Homerita*, *Saracens*, and other People inhabiting near that Countrey, which were under the Government of *Reguli* in those days, as is evident from several Testimonies; it being now the Custom to call all Nations, that were not subject to the Empire, by the Name of *Gentiles*. As soon as they set foot upon *Roman* Ground, or arrived in *Aegypt*, their Pacquets were to be sealed up, to prevent their falsifying their Letters they brought, which they might be induced to do at this time, seeing the Empire

L. 6. de Bonis
Proscriptorum,
C. Cod. Tit. 9.
lit. 42.
Dat. 7 Cal. De-
cemb. Midiol.
Abell à Cod.
Just.

L. 1. 1, 2, 3. Ne
quid publice
letitie nuntii,
C. Cod. Tit. lib.
8. lit. 11.

Cum Legati
Gentilium ve-
nerint obsignari
eorum tabulas,
oportet, C. C.
L. 5. de Legatis
C. Decretis,
C. Cod. Tit. lib.
12. lit. 12. Ab-
est à Cod. Just.

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embroiled in Wars, which at setting forth neither they nor their Superiors had expected; or animated by some Malecontentes, who out of hatred to those that at present reigned, might be desirous to embroil them in further Troubles. But besides the truth of the Letters, he expresses his Design to be, that the number of them might be preserved, possibly to see if any were directed to private hands, to such as held correspondence with those Nations, that thereby their Intrigues and Plots might be discovered: A thing often practised by other Princes. So *Valerian* afterward, when the Barbarous Nations raged in the Empire, commanded all Carriers or Conveyers of Letters to be stop'd, and their Pacquets sealed up and brought to his Presence. And the Custom is in *France*, that when the Popes Legates arrive there, their Faculties (as they call them) or Mandates, are to be carried to the Parliament. Concerning these Foreign Embassadors we shall only further suggest, that they had granted them by the Laws the use of the *Cursus publicus*.

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17. *Valens* passed most of his Consulship at *Constantinople*, and *Valentinian* made his abode at *Mila*, till the Month of *September* of the same year. During this their first Consulship *Symmachus* was the *Praefect* of *Rome*, to whom were directed this very Year thirteen Constitutions, whereby *Valentinian* provided for the Maintenance and further Convenience of that City. *Severus* of that City was *Vicar*, and *Marcellinus* was *Praefectus Pratorio* over *Italy*, *Illyricum*, and *Africa*; *Salust* of the East, and *Germanianus* of *Gall*. *Faventius* was *Vicar* of *Italy*, and *Clearchus* of *Asia*. *Valentinian* amongst other matters provided for, by several Constitutions, in the beginning of the Year, which tended to the security and emolument of the Subject, thought fit also to take care of the publick Revenue, without which neither he nor his People could be preserved in safety: And this he did by revoking all Privileges and Immunities granted to any persons, those to Souldiers only excepted. But about a Month after his Brother *Valens* from *Constantinople*, by another Constitution provided, That without his knowledge no extraordinary Charge should be imposed by any Officer, not the *Praefect* upon the Provincials of his District; according to the Testimony of *Ammianus* concerning him, that the East never had a Prince which more hated Oppressions, he taking care for its safety and conveniences no otherwise than of his own House; and being a most grievous Prosecutor as well of Oppressors as Thieves and Robbers. And as he by an Edict at this time provided against the former sort, so *Valentinian* by two others published through *Italy* and the *Alpes*, which now stood in great need of Relief against High-way Men, took care for suppression of the other. For as from other Laws lately spoken to it appears, what Disorders of this nature were committed in several Provinces of *Italy*, to which for this reason he thought fit to forbid the use of Horses; so from those of which now we write, it is evident that the *Alpes* swarmed with such as had forsaken their Colours, and betaken themselves to those Mountainous and inaccessible places; the *Italians*, who for several Ages had alienated their Minds from Warfare, not well enduring the Service. For prevention of which Mischiefs he now condemns to the Mines such as should harbour any that had deserted their Colours, if of mean Condition; if of higher Degree, he deprives them of half of their Estates: and in this Punishment involves the Officers of all Governours of Provinces, who should relieve such in their Company, and not discover them. By the Direction of these Edicts it appears, that the *Alpes* were separate, and not esteemed in those days as part of *Italy*; for though some of them were reckoned to belong to it, others appertained as *Appendices* unto *Gall*: and indeed the *Alpes Cottiae* alone belonged to *Italy*, but the *Maritime Alpes*, as *Penina* and *Graia* unto *Gall*.

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Valentinian
and *Valens*
A.D.

Vide Chron.
Hist. Cod. Theod.
A.D. 365.

L. 3. de Immunitate concessa,
Cod. Th.

L. 11. de Extraordinariis,
Cod. Th. l. 11.
tit. 16.

L. 1. de Desertoribus, &c.
Cod. Th. l. 7.
tit. 18.

Imp. Valentinianus & Valens. Edict. duo per Italiam & Alpes. Vide Gothofr. in L.

L. 7. de filiis militum apparuit, & Veteranorum, Cod. Th. l. 7. tit. 22.

Valentinian
revokes Privileges against
paying of
Money.

Valens forbids
the raising of
any without
his knowledge.

An Edict of
Valentinian
against High-
way men.

Valens summons the Sons
of *Veterani*
into the Field.

18. About the same time, that *Valentinian* shewed so much indignation against such as fled from their Colours, *Valens* was as much concerned about such as refused to come first to them. Being now making Preparations against the *Persian*, or rather in fear of the *Goths* their IncurSIONS into the parts near *Constantinople*; by an Edict directed to *Petronius Patritius*, his Father in Law, of whom we shall hear more shortly, he declares to all *Veterane* or *Emerite* Souldiers, that they ought to present such of their Sons as were able and fit for Service to be listed. And further ordains, That if any of them had, to conceal themselves and shun the Service, got to the Officers or Attendants to the Governours of Provinces, they shall be forced thence, and obliged to the Burthens of Corporations, though old and weak as they are. For the better Encouragement of all, both that were actually in Service, and to be listed, *Valentinian* shortly after took care for the more certain furnishing of them with Clothes, which in this Age were provided for Souldiers at the Publick Charge. He will have the *Susceptores*, or such as got them together, to be made

vide Chron.

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with of them
to care a-
out the Clo-
ing of Soul-
rs.

either out of the *Principals* of Cities, or else out of these *Honorati* who had obtain-
ed this Degree, not for their former services, but by Patents, or *Colicils*. For
prevention of Frauds, to which long Imployment gives opportunity, he will have
this of theirs to be but Annual; and in *Africk*, if any fault should be committed in
the choice, the blame should lie upon the Officer or Attendants of the *Proconsul*
of that Province, who had the Election in his Hands. By this we find that at this
time the Souldier was served with clothes in kind, though afterward he usually re-
ceived money in lieu thereof. And for the time when they should be furnished
and brought in, *Valens* provided at the latter end of this same year, by another Con-
stitution; requiring that it should be from the first of *September*, to the first of
April, which if the Governours of the Provinces should neglect to see performed,
(for to their care it belonged) they and their Officers were to be punished at the
discretion of the *Præfectus Prætorio*, under whose disposition they were. But this
Constitution was made some time after, when *Valens* lay at *Marcianopolis* against
the *Goths*, whom while he watched, that no mischief might befall the Provinces
from their Inroads, a dangerous flame brake out within the Borders of the Em-
pire.

A.D.

3 6 5.

L. 1. de Militi-
re 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100.

L. 2. 20. 1. 11. 12.

19. We have formerly made mention of one *Procopius* a Kinsman of *Constantinus*, and *Julian*, to whom the latter was reported, when he invaded *Persia*, to
have left order, that if he heard of his death, he should instantly assume the Pur-
ple. He was born and educated in *Cilicia*, a man close, and of few words; but
being of good Morals, he was preferred, and long continued a *Notary* and *Tribune*.
After the death of *Constantinus*, he began to look higher, was preferred to the dig-
nity of *Comes*, and now appeared to some, who more narrowly observed him, a
Person, that if opportunity should serve, would be ready to disturb the publick
Peace. *Julian* when about to invade *Persia*, left him in joint Power with *Se-
bastian*, in *Mesopotamia*, with a strong party of men; and as was said, the report
went, that if he himself miscarried, he bade him declare himself Emperour; but
hearing of the promotion of *Jovian*, and how one of the same Name, and chief
of the *Notaries* having been propounded by some few Souldiers as worthy of the
Empire, was put to death, he had not now the courage to make any stir, but
withdrew himself into places far remote. Understanding there that he was diligent-
ly sought after by *Jovian*, and weary of that retired and desolate condition, joyn-
ed with Penury and Obscurity, he stole secretly into the Country about *Chalcedon*,
where concealing himself in the house of a Friend, one *Strategius* a *Palatine*, he of-
ten came to *Constantinople*, and being unknown by reason of the meanness of his Ha-
bit, and his meagre countenance, diligently hunted after News. He had the
contentment to hear *Valens* rail'd on, for oppressions, and invading the Rights of
other men; but especially for his conniving at his Father in Law, *Petronius*, a man
deformed both in Body and mind, who had been suddenly preferred from the
Command of the Souldiers called *Martenses*, to the Dignity of a *Patritian*, and with
all sorts of exquisite Torments raged both against innocent, and guilty Persons to
find out debts owing to the publick of no smaller standing, than since the time of
Aurelian. So cruel, inexorable and raging an Inquisitor had never been known,
with whom *Cleander* under *Commodus*, and *Plantianus* the *Præfect* under *Severus*,
were not to be compared. Many Families he ruined as well of Military men, as
others, who sorely displeased with the present posture of Affairs, desired an Al-
teration above all things. This fully gratified the Humour of *Procopius*, who
waited an opportunity, how by this means to prefer himself to the highest
Dignity.

Ammonius
lib. 26.

Procopius the
kinsman of
Julian an Con-
stantinus incou-
aged by
aring Valens
it'd on.

Hæc aliter Zo-
simus suo more,
nempe Julia-
no mortuo Pro-
copium ad Jo-
vianum venisse
eique Chla-
mydem purpu-
ream tradidisse
at rogasse ut
militia sacræ-
mentò solutus
domum revertere
sineretur. Quo
imperator Cæsa-
ream Cappado-
ciæ se contulit.
Postea superius
à Valentiniano
& Valente com-
prehendi est
jussus sed mili-
tes missos fru-
stratus in Euxi-
nam portum
aufugit, &c.

Zosimus lib. 4.

20. Winter being over, *Valens* hastened for *Syria*, to make head against the *Per-
sian* King, who was tampering to get *Armenia* into his Hands; and being come into
Bithynia, received Intelligence how a certain Nation of the *Goths*, as yet untouch-
ed, had designed to invade *Thrace*. However he resolved to keep on his Jour-
ney, but ordered a strong party both of Horse and Foot, to defend the places
where the IncurSIONS of the Barbarians was most feared; and upon this occasion,
as is most probably conjectured, he directed his Edict concerning the bringing of the
Sons of the *Veterani* into the Field, to *Petronius* his Father in Law, who seems in
his absence to have been left in *Thrace*, and the parts near *Constantinople*. The Em-
perour being thus removed to a great distance, *Procopius* tired out with his pri-
vate necessities; and resolving that a death how grievous soever, was to be prefer-
red before so miserable a life, cast the Die of his Fortunes very rashly, and entered
upon a most bold and adventurous Enterprize: Having acquaintance with some of
those Souldiers that were to march for *Thrace*, by great promises he laboured to

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Courts some
Souldiers.

draw them over to his Design, and with them that whole Army. Distracted with various thoughts of Hope and Fear, he met them at a place about *Constantinople*, called the *Baths of Anastasia*, from a sister of *Constantine*, where by those mercenary Souldiers, he was received with promise of safety, and a show of Honour, though indeed, but in the nature of a Prisoner, or in such manner as the *Prætorian Bands*, having set the Empire to Sale, received *Julian* after the death of *Pertinax*. There stood he amongst them like a Ghost, or one newly risen out of the Grave, without the Habit of a Souldier, but cloathed like a Courtier, with a Coat imbroidered, and from the groin downwards, being after the fashion of a Page, yet with a Pike in his right Hand, and a Purple Coat thrown upon his left Arm; he appeared indeed like some Player upon the Stage. In this ridiculous manner having fawningly implored their assistance, and promised them great matters, he was carried by the Souldiers who encompassed him, and shewed publickly in the City; though in their passage through the Streets, in great fear they were to be knocked on the head with stones, or tyles cast down upon them from the houses.

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Upon the Em-
perours Ab-
sence Uurpes.Upon News
thereof Valens
returns West-
ward.In the mean
time Procopius
disposeth
of places.And his Af-
fairs seem
to be in a good
posture.

33. Yet the people made no opposition, nor yet shewed him any countenance, though desirous of change; especially by reason of *Petronius*. Having ascended the Tribunal, a strange amazement seized on all men, which was accompanied with what is usual, a deep silence: Hereat he was strangely dismayed, and imagining that now the means for bringing him to a speedy end, for which he had often wished, rather than the continuance in his former condition, was at hand, he was seized with a trembling in all his limbs, and therewith struck dumb for a long time. At length he so far recovered his spirits as to speak something with an interrupted and faint voice, concerning his Descent from the Imperial Family of *Constantine*, and this was followed by the applause of a few persons hired before hand, and then by the Acclamations of the ordinary sort in a tumultuous manner, giving him the Title of Emperour. Thus cheered, in an huddling manner, they hastened with him to the Palace, accompanied with none but those of base condition. Afterward many came to him, either perswaded, or on their own accords, and others, not hearing this strange and sodain alteration, slipped away and hastened to the Emperour, amongst whom he that used most speed was *Sophronius*, at present a *Notary*, but afterwards *Præfect* of *Constantinople*; who overtook *Valens*, at *Cæsarea* in *Cappadocia*, as he was ready to march through *Cilicia*, for *Antioch*. The knowledge of matters how they stood at *Constantinople* diverted the thoughts of *Valens*, and he resolved to return by the way of *Galatia*, and by a speedy retreat to crush the Rebellion as it were in the egg. While he hastened back by great Journeys, *Procopius* procured some Persons impudently to affirm, that they came out of *Gall*, and that *Valentinian* was dead in that Province, where all men would willingly submit to the new Prince. And that so audacious a design, might not want answerable prosecution, *Nebridius*, who through the Faction of *Petronius*, had been made *Præfectus Prætorio*, in the room of *Sallust*, and *Cæsarius* the *Præfect* of *Constantinople*, were both cast into Prison. The Government of the City was committed to *Phronemius*, and *Euphrasius* was made *Magister Officiorum*, two Learned *Galls*; and matters belonging to the Camp, were intrusted with *Gomoarius* and *Agilo*, recalled to the Military Girdle, indiscreetly as the Event shewed. And, because *Julius* a *Comes* who Commanded the Forces now in *Thrace*, was feared, lest he should come sodainly upon the Rebels, *Nebridius* was forced to write to him in *Valens* his name, to hasten to *Constantinople*, where he was also secured. All things thus seeming to favour them, *Araxius* was by procurement of *Agilo* his Son-in-Law, made *Præfectus Prætorio*; and on many others, Offices and Employments at Court were conferred. For so did Ambition and Covetousness sway, that though this to wise men could appear little more than Pageantry, and some were constrained to accept of these fine things, yet others made friends and that by money, to come at them.

34. *Procopius* his Estate now seemed reasonably well settled, and for the preserving of it in this posture, a sufficient Army was to be raised, which was easily enough done, those Troops which were to march for *Thrace*, being by great promises allured to swear Allegiance to him, and that with bitter Exccrations; who had also the advantage of shewing them the little Daughter of *Constantinus*, which he carried in his lap, and thereby his nearness in Blood both to him, and *Julian*. And it made a greater Impression that *Faustina* the Childs Mother had that day upon some other occasion put on the Habit of Emperess. Now were certain Persons sent to draw *Illyricum* to his party, but armed, besides blindness and madness, with no other materials, than Medals stamped with this new Emperours Image, and other

simple

Sect. 3. simple allurements, whom *Equitius* that Commanded in those parts seized, and put to death with much torture; but fearing he might himself be so treated, he Fortified the Passages toward the North, viz. that of *Dacia Ripensis*, the most Famous one of *Succi*, and the other in *Macedonia*, known in Greek by the Name of *Acontisma*. By this means was the Usurper hindered of his Design upon *Illyricum*, and thereby missed of a notable Advantage; while in the mean time *Valens* travelling through *Galatia*, upon notice how far matters were gone at *Constantinople*; was struck with such consternation, that he thought of casting off the Purple, and had certainly done it, if those about him had not plyed him with powerful motives to the contrary; by the advice of whom, he sent before the *Jovii* and *Victores* to break into the Camp of the Rebels. While they were on their way, *Procopius*, lately returned from *Nice*, in five days space having gathered together those called the *Diviteses*, and a promiscuous number of such as had forsaken their Standards, went as far as *Mygdus*, a Town of *Phrygia*, situate on the River *Sangarius*. There the Legions met, and being ready to join, when now the Arrows flew very thick, he boldly stepped forth alone, as to provoke some enemy to fight, but espying one *Vitalianus*, whom its uncertain whether or no he knew, he gently saluted him in Latin, kissed his hand, and gave it him; and when all wondered what he was about, he mildly upbraided him and his fellow Souldiers, for taking the part of a miserable *Pannonian*, who robbed and spoiled all men, and so far he insinuated himself, that though they were come thither animated with Anger and Resolution to fight, they were by his speech and behaviour mollified, nay, quite changed, and vailing their Ensigns to him, which was the usual sign of Defection, passed over to his Party. Instead of the warlike shout to Battel, which the Barbarians termed *Barritus*, they saluted him Emperour with loud voices, and lucky acclamations, and with universal Consent accompanied him to his Pavilion, affirming, after the manner of Soldiers in such cases, that *Procopius* was invincible.

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35. This Accession so seasonably made to the strength of *Procopius*, one *Rumitalca* a Tribune, who, after his coming over, had received the charge of the Palace, upon mature advice, hasted with some Souldiers by Sea, to that City of old called *Drepanum*, at this time *Helenopolis*, and thence with all speed, went and seized upon *Nice*. To besiege it *Valens* had sent *Vadomarius*, who had exercised the Command of *Dux*, and was one of the *Alleman* Kings, while he himself went on to *Nicomedia*. Thence he passed, and with all his might laid siege to *Chalcedon*, from the Walls whereof, many railing speeches were cast against him, and amongst the rest they called him *Sabaiarius* or *Beer-drinker*, *Sabia* being a sort of small Drink made in *Illyricum*, of Barley or Wheat, as at present our Beer or Ale, and in *Pannonia*, where in the Town *Cibalis* *Valens* was born. Being tired out by scarcity of Provisions, and the pertinacious resolution of the Defendants, he resolved to discamp and be gone, when those that lay in *Nice*, sodainly making a Sally bore down all before them, and under Conduct of their stout Captain *Rumitalca*, designed to surprize *Valens*, which had been effected, but that he had notice of their coming in the very nick of time, and slipped away by the Lake of *Samona*, and the every way winding River *Gallus*. By this means *Bithynia* came into the hands of *Procopius*, and *Valens* returning with all the speed he could make, to *Ancyra*, there was revived by the welcome news of the coming of *Lupicinus* with considerable Forces out of the East; wherewith now entertaining new hopes, he sent *Arintheus* an excellent Commander, against the Rebels. He being come as far as *Dadaстана*, where *Jovian* died, found there to stop him one *Hyperechius*, formerly an Apparitor to the *Castrensis* of the Palace, with whom as a despicable fellow, disdain to fight, he sent to his men to lay hold on their Leader and bind him, which they presently did. In the mean time one *Venustus*, an Apparitor belonging to the *Comes Largitionum*, under *Valens*, having been formerly sent to *Nicomedia*, to fetch gold to pay the Souldiers that served in the East, upon what had lately hapned, betook himself speedily to *Cyzicus* with what he had collected. There he met with *Serenianus* the *Comes Domesticorum*, who being sent to see to the Treasure there, defended the City with a tumultuous sort of men; and this City, that to *Bithynia* he might joyn the *Hellepont*, *Procopius* had resolved to attacque.

Mira de Arithæo tradit
Basilius M. in
Epist. c. 186.
qui illius vi-
duam de morte
viriconsolatur.
vide Valens. in
locum.

36. The accomplishment of his Design was deferred, by reason that the Defendants had Chained up the Haven, and thereby barred all beaked Ships of access, and besides highly plyed their business from the Walls. After that the Industry of all the Captains in Council, and of the Souldiers in fight, was rendred useles, one *Aliso* a Tribune, a cunning Warrior, found means to cut the Chain, which done, the place was easily taken, and *Procopius* coming thither, pardoned all he found therein.

Valens lays
Siege to Nico-
media.

In danger of
being Surpri-
zed.

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Procopius
grows Tyrannical.Gratian and
Dagalaiphus
Consuls.Valens draws
off Arbeto
whom Procopius
had dis-
obliged, and
thereby, doth
his business.For by the
persuasion of
Arbeto the
Army revolts
from Procopius.Who is deli-
vered up and
put to death,
together with
the Deliver-
ers.

therein, except *Serenianus*, whom he sent Prisoner to *Nice*, with order that he should be carefully look'd to. Now did he bestow on *Hormisdas*, the Son of that *Hormisdas* of the Royal Blood, who came out of *Persia* to *Constantinus*, the Dignity of *Proconsul*, with Power both in Civil matters, and those relating to War; as in old time was the Custom. He had demeaned himself with great Moderation and Humanity hitherto, and being sought for by a Party which *Valens* had sent through By-ways into *Phrygia* to entrap him, he escaped through his singular diligence, and rescued his Wife that followed him, when near being taken; a Lady rich and noble, by whose Modesty and Resolution he afterward escaped imminent dangers. But *Procopius* now puffed up with his success, and not considering the Vicissitude of Human Affairs, commanded the House of *Arbeto* to be rifled, (which as belonging to his Friend he had formerly spared) out of indignation, that being several times sent for he had deferred his coming, pretending the Incommodities of Sickness and Old Age. He could not but apprehend, that from this act great Inconveniences would arise, yet imagining that at his pleasure he could pass into the Eastern Provinces, he neglected his Affairs, and grew remiss. Onely he attempted to draw the Cities of *Asia* to his Party, and gave greatest heed to such as could best advise him how to scrape up Money, for the better sustaining of that great Shock which must necessarily come upon him. These things thus fell out toward the middle of Winter, in the same year that the two Emperours bore the first time the Title of *Consuls*.

24. The following year, which was known by the Consulship of *Gratian* the Son of *Valentinian* and of *Dagalaiphus*, when Spring was well advanced, *Valens* having joyned *Lupicinus*, with a strong Army marched to *Pessinus*, a Town formerly belonging to *Phrygia*, but now to *Galatia*, which having reinforced so as to withstand the Impression of any sudden Accident, by the foot of the high Mountain *Olympus* he proceeded into *Lycia*, with purpose to fall upon *Goamarus*, who was supine and careless in the Management of his business. But it much incommoded his Affairs, that the little Daughter of *Constantinus* with *Faustina* her Mother, was by *Procopius* his order carried up and down, and shewed to the Souldiers, whom he enraged by the sight, and provoked to fight for that tender Branch of that Imperial Stock, to which he himself was related; As the *Macedonians* (it's said) being to fight with the *Illyrians*, placed their Infant King in his Cradle, even in the Field before their faces. Therefore to obviate this mischief he studied all manner of ways, and drew off from *Procopius* his lately disobliged Friend *Arbeto*, that by the interest and favour of one of *Constantinus* his Captains, the Minds of the Souldiers might be mollified. Neither did he fail of Success; for *Arbeto* being revered for his high place and venerable Age, quite turned their Hearts. He told them *Procopius* was no better than an High-way man; called them his Sons, and Partakers in his former Labours, though now misled by the Tricks of this desperate and obscure Fellow, whom he advised them to quit, as one who must at length necessarily be ruined and forsaken by all men. And this had such Influence upon *Goamarus*, that though he might easily have escaped, he went over to the Emperour, who quickned by this success hastened into *Phrygia*, and there near to *Nacolia* presented Battel to the Rebels. Now did *Apilo*, moved by the danger wherein he stood, revolt also from *Procopius*, and most of his Men (for he was General) followed his example, carrying their Targets under their Arms, or upon their Heads, and their Banners or Standards not erect, but in a negligent posture, which was the manifest sign of Defection. *Procopius* amazed at so unexpected an accident, quitted his Horse, and betook himself into the adjoining Woods, and was followed by *Florentinus* and *Rarchalbas* a Tribune, whom Necessity and no good will had drawn to side with him. Having wandered the greatest part of the night, when the Moon shone so bright that they feared they should be discovered, they bound *Procopius*, and presented him to the Emperour, who both commanded his Head to be struck off, and them two also to be put to death, without any right consideration in the Judgment of *Ammianus*. For, had they betrayed a lawful Prince, Justice it self would have pronounced them duly punished; but if a Rebel and Disturber of the publick Peace, for so signal a Service they rather ought to have been highly rewarded. But such was the end of *Procopius* and his Usurpation, at the Age of forty years and ten moneths; a man not uncomely of Body, nor of mean stature, but who went always stooping, and look'd ever upon the Ground, by reason of his Melancholick Disposition: Not unlike that *Crassus*, whom *Lucilius* and *Tully* reported, but once in his whole life to have laughed. Yet was he not cruel, but abstained from Blood; a thing to be wondered at in the Historians Opinion; whereas indeed it is not known what he might have proved.

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3 6 6.

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3 6 6.

Gratiano
Nb. P. &
Dagalaiphus
Coss.

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25. So went matters in *Phrygia Salutaris*, the Report whereof coming to *Marcellus* the *Protector*, the Kinsman of *Procopius*, and Governour of *Nice*, he there in the dead time of the night caused *Serenianus*, who was kept close prisoner in the Palace, to be slain: Which happened luckily for several persons; for being a morose cruel man, and much favoured by *Valens*, both as his Countryman, and for the suitableness of his Disposition, had he overlived the Defeat of *Procopius* his Party, in all probability he would have procured the Destruction of many, as well innocent as other persons. This done, *Marcellus* seized speedily on *Chalcedon*, and with the Countenance of a few, whom Poverty and Desperation had driven, and now kept in Rebellion, put on the Purple, being deceived in two particulars whereon he relied. He had heard, that a Power of *Goths* was coming to the aid of *Procopius*, and these he believed he might easily draw over to his own Assistance. And he was utterly a stranger to what passed in *Illyricum*, where *Equitius* perceiving that the whole shock of the War would be turned upon *Asia*, for that he heard nothing of what had happened near *Nocolia*, resolved if he could, to become Master of *Philippopolis*, as very commodious for Assistance of *Valens*; but a little after, when this presumptuous act of *Marcellus* was heard of, a Party of stout Souldiers was sent, who surprized and committed him like a Slave to Chains and Prison, whence he was brought out the next day and tortured to death, together with his Complices, having onely one good thing performed, if we believe *Ammianus*, that he made away *Serenianus*, than whom (in his Opinion) *Phalaris* himself was not more cruel. However, there followed a severe Inquisition after Offenders, and a most horrible Slaughter, as well of innocent as guilty persons; *Valens* his Ears being open to all Complaints and Informations, though never so unjust or ill grounded, and made by those who having had some relation to the Court, were merely induced to this practice by a vehement Thirst after the Wealth of their Neighbours. Many were banished to Islands, and many were turned on begging, no Moderation being had, till the Emperour had glutted himself with Bloud, and both his Coffers and those of his Followers were filled by Confiscations and Rapines.

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Marcellus his Kinsman seizes *Chalcedon*, and puts on the Purple.

Is taken and tortured to death.

Valens very severe in punishing this Rebellion.

Tremilius & Libanius humanitatem ejus in hac re contra prædicant. *Valer.*

26. So were the Remainders of this Civil Tempest dissipated in the Eastern parts of the Empire; and all those Concussions ceased, which were accompanied if not signified by strange preternatural Motions of both Land and Sea. For while *Procopius* his Rebellion was yet but little advanced, on the one and twentieth of *July*, in the Consulship of the two Emperours, there happened such horrible Earthquakes throughout the World, as neither true Historians have related, nor ever Fables themselves represented to us. A little after the day dawned, there was a great Tempest of Thunder and Lightning, which was followed by so dreadful a Trembling of the Earth, that the Sea also, shaken therewith, deserted the Shore and its ancient bounds for a great space, and the depths of its Chancel were discovered; multitudes of Fish were seen to stick in the Mud, and the unequalness of its bottom appeared, here Hills and there Valleys, which never had before seen the Sun, since at the original of all things they were first overwhelmed with the Clouds. Many Ships were left on the dry ground, and swarms of people flew thither to catch Fish; when suddenly the Sea, as disdaining to be imprisoned, returned to its former place with such fury, that not containing it self therein, but transported beyond its bounds, by the violence of its Rage and Motion; it overturned Houses and other Buildings innumerable, drowned many thousands of Men, and overwhelmed numbers of Ships; great Vessels were by the violence of these Gusts blown upon the tops of Houses, as it happened at *Alexandria*; and some near two miles from the Shore, as *Ammianus* (who relates these things) saw one himself near *Methone* a Town of *Laconia*. This Prodigy we cannot take to have signified any thing relating to *Procopius* his Rebellion: so much as that dreadful Inundation made into the *Roman* Empire by the Northern Nations, which shortly after happened, and the Ruine of the Western Provinces, which followed thereupon.

Ammian. ad calcem l. 25. Socrat. l. 4. c. 3. Hieron. in Chr.

Such Earthquakes as never were heard of in any Age.

27. In such estate we must leave matters in the Eastern Parts, while we inquire how *Valentinian* managed his Affairs in the West. He had forbidden the use of Horses in the Provinces about *Rome*, as was lately said, for prevention of Robberies so much practised in these Countreys; but the Prohibition being so general, that Publick Business was thereby much obstructed, as he had dispensed before with *Senators*, the *Honorati*, *Governours* of Provinces, and the *Veterane* Souldiers as to this matter, as also with those called *Suarii*; so now with the *Palatine* Officers, through the Province of *Picenum*, by an Edict directed to one *Valentine* the *Consularis* of this Province, which is to be understood of that called *Picenum Annonarium*, and not of the *Suburbicarian Picenum*, which at this time

L. l. 2, 3, 4. Quibus et q. 6. rum usus concessus est, &c. Cod. Theod. 9. tit. 30.

had

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had not its peculiar Governour; all the *Suburbicarian* Provinces having now one *Consularis* set over them. At this time great Complaints there were in *Africk*, concerning the Inequality of Taxes laid upon Lands. It was the Custome that the Emperours sent into the Provinces certain Officers called *Inspectors*, to view and consider what barren grounds there were, what were fit to be exempted from Payment; and accordingly the Owners of them were wont to be relieved. But hereupon an Inconveniency was discovered to arise to the Publick Revenue, for several rich men that possessed other fertile grounds, were observed to take the advantage and get off; which *Valentinian* judging not at all requisite from any Rules of Charity, forbade it should be practised for the future, commanding that such as possessed both good and bad, should pay for them all together, the fertile making Compensation for the barren. And whereas there were further heavy Complaints in this Province of *Africk*, that the Subject was burthened by an unequal charge of Carriages, for the conveyance of the Provisions belonging to the Army, (in which sort those of *Britain*, were in former time much harassed, as appears by *Tacitus*, and other Provincials in other places much agrieved) which Disorder proceeded from the Knavery of the *Tabularii*, or the Officers that managed the Conveyance; this Emperour by another Edict Commands, that by Tortures they be deterred from all such Practices for the time to come, and that the burthen of Conveyance be imposed on such as lay nearest to the *Mansions*, or limits where the Army lay, and not on those at great distances. The occasion of this Law seems to have proceeded from what *Ammianus* Writes of the *Austoriani*, and other *Moorish* Nations, their more than ordinary infesting the Limit of *Africk* in these days.

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L. 10. 11. de
Annona & Tri-
butis. Cod. Th.
lib. 11. Tit. 10.

He brings up
the Defenders
of the Cities
or People.

28. These were Instances of *Valentinian* his care for the Ease of the Provinces, as to these particular Cases; but he provided for their Emolument in a more general way. For about this time it was, that those Officers were created by him, whom they called *Defensores Civitatum*, now being made the first mention of them in the Laws. They were Persons Chosen by the general Consent of Cities, and Townsmen; of approved wisdom and fidelity, out of the *Municipes*, *Plebeians*, or those they called *Honorati*, and their work was to defend the Places, as their Name imported; in which respect, they were further termed, *Locorum Defensores*, *Defensores Discipline*, *Parentes Plebis*, and *Defensores Plebis*, resembling in some measure the old *Tribuni Plebis* of the City of *Rome*. "The poor they preserved and rescued from the Violence of the rich Merchants, from the Insolence of the Governours of Provinces, as also from Inferiour Officers belonging to the Ports, and Customs; all other Persons that were to Pay Taxes, from the capacity of Collectors; and in Conclusion, from the Insolence of Thieves, Murderers, Adulterers, and other Criminals. To this end, the People had recourse to them, and they had power to make full Inquisition into such Offences. Yet could they neither punish by Fine, or Imprisonment; but sent away the Offenders with their Examinations, and their Cases stated, to the Ordinary Judges, or to the Prince himself. To their care also it appertained that the *Curie* of Corporations, or other Bodies in Companies, should be constantly supplied; that none should make use of the *Cursus Publicus*, without Licence duly obtained. Inventories of the Estates of Pupils, or those under Age, were made before them, and Actions might be entred, for they had power of searching Records, if the Governour of the Province was absent. But by an Edict now directed to one *Seneca*, by this Title 'of *Defensor*, he is forbidden to intermeddle in any Causes, exceeding the sum of fifty *Solidi*. They continued in their Office for the space of five years, and *Majorianus* Ordained, that for their Confirmation therein, the Emperours Consent should be necessary.

L. 1. de Defenso-
rib. civitatum
Cod. Justin.
lib. 1. Tit. 55.
& Cod. Th. lib.
8. Tit. 15. L. 4.
Vide Paratit-
lon. de Defenso-
ribus civita-
tum. Cod. Th.
lib. 1. Tit. 11.

29. But this is chiefly remarkable, as to those Officers, thus newly made, that *Valentinian* gives it in special Charge to this *Seneca*, lately mentioned, that he should take notice of, and carefully obey that Law, whereby was Commanded, that those that bore any publick Office, should buy nothing in the place subject to their Jurisdiction, during the time of their Power. For such indeed was the Law of the Empire, that they should not only not buy, but neither receive or accept by way of gift, any thing during their Administration; lest they should make use of their Power, to wrong or oppress any of those that were subject to their Authority. And by reason of frequent miscarriages in this kind, doubtless this severity was first introduced, which sometime extended so far, that it reached to places even beyond the Jurisdiction of those Employed, whither the awe of their Power might reach, though the proper effects thereof could not; but this as extravagant was afterward Contracted, and the Prohibition as to

Vim illius legi
aspicito etq;
parito qua
proinde Con-
stitutum est ut
publicum Mu-
nus agitantes
nihil in suscep-
to mercarentur
Off. 10. Dat. 2
Kal. Jul.
Vide Paratit-
lon de iis qua
administran-
tib. &c. Cod.
Th. lib. 8.
Tit. 15.

Place,

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viates abu-
Commit-
l by the
vernours of
vinces.

Place, was confined within the District of the Magistrate; who within those his own Bounds, could not make any Bargains or Purchase; though he was Native of a place remote, and whether he did it publickly, or privately. He might only purchase what had belonged to his Father, lest his Family should be wronged; but in any other Circumstances if he was found trucking, all his Contracts were absolutely Null, and the thing so bought or given, returned to the Seller, or Giver, from him that possessed it, whosoever he was, if within five years, after the Magistrate returned to a private life, he challenged it: Otherwise it was Confiscate, and in both Cases the Purchaser lost his money, or the Price, in whatsoever it consisted. "This by another Constitution of this same Year, *Valentinian* in- forces, and will have none of what Dignity soever excepted, whether they were *Illustrious*, of the Rank of *Spectabilis*, or *Clarissimi*: and he enumerates thirteen several sorts of Inferior Officers, assistant or subservient to the Magistrates. By an other Constitution of this same year, he forbids all the Magistrates or Judges to receive any Petitions or Letters concerning any Business, when they are retired at Home, but only in Court, and that they Commit none to Prison, till the Accuser of the Party had Entred into the Record, or Book, kept for this purpose, his Accusation relating to the nature and manner of the Crime Committed.

L.5. de iis que
administ. vide
Goth. in L.

L.3. de Officio
Procuratorum Pro-
vincie Cod. Tit.
lib.1. Tit.7.
L.4. de Coniugia
Roman. Cod.
Th. lib.9 Tit.3.

nd variously
provides for
the Conveni-
ence of Rome.

30. By various other Laws he still provided for the conveniences of the City of *Rome*, both in relation to its Buildings, and supplying of it with Provisions, which he would have imported in kind, and no money taken in lieu of them, as had been practised by the Officers, who had the care of them, to see them brought in and laid up. That there might be nothing omitted, which would conduce to plenty; for the regulating of Bakers, and settling their Concerns, he provided in several Edicts; and not only took order in their matters, but went as far as to Ordain what was requisite for the carriage of Corn, or other Necessaries, from one place to another, wherein yet he still served another Publick End. There were a sort of men called *Catabolenses*, we may term them *Loaders* or *Carriers*, whose employment it was to load the Corn Landed at the Haven, upon Carriage-Beasts, and so to convey it to the Publick Granaries, or thence to the Bake-Houses, as there was occasion. "For supply of their Number, he Ordains, that *Libertini* (or such as had been slaves, but had obtained their Freedom) should be forced to this Employment, in case they were worth thirty pounds of silver, or had received Estates from their Masters, either by their Testments, or by way of gift in their life time; provided it was nothing belonging to the Body or Company of the Bakers; for then they should be forced to the Services, and burthens of that sort of men, who being also no better than Publick Servants, this very year, he utterly forbid any one of them ever to be freed from that Service, or permitted to pass from one Bake-House to another. But it must be known, that in this Age whereof we Write, it's found that Princes bore some spleen to the *Libertini*, or those that had been Slaves, as we may have further occasion to discover, chiefly because they abounded with Wealth, through the bounty of their Masters, who were inclined to an extraordinary kindness, nay, profuseness to them. To put some stop to this humour, *Valentinian* subjected them to this almost another kind of Slavery; although if they had received any Lands from their Lords, that were *Senators*, they should notwithstanding, be Subject to the usual Payments relating to *Senatorial* Lands. This Edict bears date on the seventh of *July*, and is said to have been read in *November* following, in the *Pantheon* at *Rome*. The *Pantheon* was that Famous Temple built by *Agrippa*, which being burnt, was soon after repaired, and dedicated to all the Gods; but afterwards, by permission of *Phocas*, and procurement of *Boniface* the Fourth, Bishop of *Rome*, was turned into the Church of our Lady, and all Saints. This Law seems to have been published in it; not only because of the confluence of *Pagans* to it in those days, of which persuasion most of those Publick Bakers, and *Catabolenses* might be, but for that it was near to their Work-Houses, and Stables, being in the Ninth Region of the City.

L.1. Tit.1. in
ipsis spectibus.

Vide L.L. 8,9,
10. de Pistorj-
bus & Catabo-
lensibus. Cod.
Th. lib.14. Tit.
3. & Goth. in
Comm. dicti
sunt Catabolen-
ses à κατα-
βάλλειν quod
est onerare atq;
vinci forsan κα-
βαλιον à κα-
βάλλειν pro
καταβάλλειν
Doribus.

Dat. Non. Jul.
Acta in Pan-
theo Non. Nov.

31. Having discovered great Frauds to be often committed by those that managed the Publick Revenue; and chiefly how they were wont to let out the money to Interest; or make other Bargains, to their own advantage, and his loss; and chiefly in the Diocess of *Africa*; by an Edict, directed to *Dracontius* the *Vicar* thereof, (which was received at *Adrumetum*, the usual place where the *Vicar* resided, on the seventeenth of *November*) he Condemns those that make such Contracts with these Officers, in a fine amounting to the four fold value of the summ. But as the Revenue was diminished by such Frauds, so was both it and the Estates of private Persons very much abated, by reason of the scar-

L.1. de Jul.
Fidei Cod. Tit.
lib.1. Tit.1.

sect.2. city of Coyn, and especially of the Golden, which caused him some years after to raise the value of it something higher than it had been in the Reign of *Constantine*. At present he considered how he might increase the Metal, which if it could be done, there would be no need that the other course should be taken; and this was by giving encouragement to such as had an inclination to fetch it out of the Bowels of the Earth. It was the Custom generally allowed, as at this day, That Mines of Silver and Gold appertained to the Sovereign Authority; and as to the Commonwealth or Empire of *Rome*, the Mines belonging to it were wont to be digged and wrought by such as were condemned to that Drudgery, who being maintained no otherwise than as Slaves at the publick charge, all the Profits accrued to the Treasury: Particularly at *Carthage*, in Mines of Silver were employed in old time no fewer than four thousand men, the effect of whose Labours was a daily Product of twenty five thousand Drachms. But such was the Condition of this Age in reference to Coin, that *Valentinian* it seems found himself obliged to an extraordinary course of permitting private persons to search for Oar, under certain Limitations and Conditions. Being now come to *Paris*, whither (as we said) he travelled out of *Italy*, by an Edict directed to *Cresconius* the *Comes Metallorum*, he took order herein, commanding him to require by way of Tribute or Imposition Eight Scruples from every such Undertaker, but this in Oar * or Powder of Gold, not in what was throughly melted and refined, whereof twelve Ounces || were to be esteemed of equal value to fourteen of the other. The rest they should take to themselves, yet so as the Treasury must have the Right of Preemption at a competent and indifferent rate. The *Comes Metallorum*, to whom this Law is directed, was a peculiar Officer under *Valentinian*. Of this *Comes* we have spoken heretofore from the *Notitia* of the Empire, which mentions such an Officer in *Illyricum*, under the disposition of the *Comes Sacrarum Largitionum*; but in the West no such *Comes* is mentioned, for the *Comes Auri* his Office was of another nature, relating to the Payment of Gold in what sort soever made.

32. *Valentinian* being come to *Paris* about the beginning of *November*, and the later end of his Consulship which he bore with his Brother, continued there the last two Moneths of the Year, and some part also of the following, till he was called further Northward by the Motions of the Barbarians upon the Borders. For while *Procopius* was driving on his Design in the Eastern Parts, the *Allemands* having recruited themselves, and resumed their former Courage, which had been so greatly abated, *Ammianus* tells you, by the Courage and Conduct of *Fulian*, renewed their IncurSIONS into *Gall*, and cut off two *Comites*, *Carietto* and *Severianus*, who opposed their Motions. This Defeat being understood, *Dagalaiphus* was sent from *Paris* to redeem the Credit of the *Roman* Arms; but he delayed his March, pretending that he alone was not of sufficient ability to grapple with so powerful an Enemy; and he being afterwards sent for back to receive the Consular Ornaments, with *Stratian*, *Fovinus* the *Magister Equitum* was fitly furnished and dispatched away in his room; who marching with great wariness and circumspection, near a place called *Scarponna*, twelve miles from *Mets*, came suddenly upon a great number of barbarians, and cut them off before such time as they could arm themselves. Having destroyed this, he went to seek another Party, which with the same caution having also surpris'd at the side of a River, while they were drinking, combing, and washing themselves, he treated them in the same manner. There remained a third Body, which animated by his good fortune, he hoped to attack with the same success, but found them not in the same posture, but prepared fully for an Engagement in the *Catalaunian* Plains. Here he was obliged to entrench himself, and in the morning drew out his Men in a larger compals than usual, that he might not encourage the Enemy by a view of the smallness of his Numbers in comparison of theirs; and though his Men were inferiour in Numbers, yet in Resolution they far exceeded, all but *Balchobaudes*, a Tribune of the *Armatura*, a great Braggadocio, but (as usually such are) of small performance; who (the Fight continuing till the evening) ran away, and endangered the Defeat of the whole Army. Yet by the Generals care and endeavour the Souldiers were not so discouraged, but that pressing still upon the *Germans*, at last they had the better, and killed six thousand, with the loss but of two hundred men, and as many wounded. The Night having put an end to the Dispute, early in the morning *Fovinus* shewed himself in the Field; but the Barbarians, of whom four thousand were wounded, would have no further to do with him, but shifted away. At his return from the Pursuit he found that their King, who had been taken Prisoner with a few others, was hanged by a Party of the *Hastarii* or *Arsarii*, whom he had sent to plunder the Camp. Being enraged at so base an act, so impudently committed without order from their Superiours, he resolved to

A.D.

3 6 6

per
private per-
sons to search
for O upon
terms

L. 3. de Met.
lis & Metal
ris, Cod. Th. l
10. tit. 19. D.
4 Id. Decret.
Parisius.
* Baluca di
tur. Fide Go:
com.
† L. 4. cod. tit.

Ammian. l. 2

ani-

Sect.2. animadvert upon the Tribune, and had condemned him, but that the Fact was evidently found to have been done by the violence and rage of the Souldiers. Then marched he back to *Pavia*, on his way whither the Emperour met him to do him Honour, and afterward designed him *Consul*; the Joy being increased by a sight of *Procopius* his Head, which *Valens* sent much about the same time to his Brother. This is the Account we have of the War against the *Alamanni*, and the Battel fought by *Fovinus* against them, from *Ammianus*. *Zosimus* (according to his custom) tells us another sort of Story: That the Emperour himself met the Enemy, and giving them Battel, the *Romans* were beaten and put to flight. That the Legion of the *Batavians* being found guilty of so much Cowardise, he condemned to be disarmed and sold for Slaves; but all the Army prostrate before him besought him, that he would not put so great a Disgrace upon them, and promised him for the time to come they should behave themselves like Men, and as became *Romans*: To which he yielded, requiring them onely to make good their words by some evident act. Hereupon the *Batavi* resumed their Arms, and engaging a second time against the *German*s, the Barbarians paid for their former success at a very dear rate, an infinite Multitude being slain, and very few returning home with the News. Thus he, without any mention of *Fovinus*.

A.D. 366.

ὁ πανηγύρις
δὲ αὐτοῖς τῆς
Βασιλείας, &c.
Lib.4.

33. But to return to our more certain Guide: *Ammianus* tells us further, That after this Battel several other Skirmishes happened in *Gall*, which he thinks it not worth the while to relate. And though what he adds next after this, he judges not to be of that nature, yet we can hardly put more value upon it. About this time a kind of Prodigy there was seen in that part of *Tuscia* called *Tuscia Annonaria*, (for those Reasons formerly alledged) where in a Town called *Pistoria*, about nine of the Clock, in the view of many Spectators, an Ass mounted the Tribunal or Judgment-seat, and there brayed very loud and long, to the Astonishment both of those who heard it, and heard of it. Great wonderment there was what it should signifie; and at length the Riddle was unfolded, when one *Terentius*, a mean Man born in *Rome*, and a Baker, (*Pistor* in Latine) as a Reward for having accused *Orphius* (who had been *Præfekt*) of Oppression, was preferred to be *Correktor* of that Province; but bearing himself as ignorant persons are wont, very arrogantly, and being found guilty in some matters belonging to the Company of the *Navicularii*, he ended his Life (as was reported) by the hands of the Hangman, at such time as *Claudius* was *Præfekt* of *Rome*. But this happened some years after, for during the late Motions that City was governed by *Symmachus*, who had succeeded *Apronianus* in that Command, a Person Eminent for Learning and Modesty, by whose procurement it abounded with all Conveniences more than ever it had wont: Which Testimony of the Historian is largely confirmed by the many Laws concerning this subject. He also built them a most beautiful Bridge, with which the Multitude was very much pleased for the present, but shortly after made him too sensible of its fickleness and ingratitude; for upon a meer Rumour raised by an obscure Fellow, without any witness or ground, that he should say, He had rather cast his Wine upon the Limekilns, than sell it at the rate which they hoped for; they burnt a beautiful House that he had beyond *Tiber*. After him to *Lampadius*, who had been *Præfektus Prætorio*, was committed the Government of the City; a man of that humour, that he would take it heinously if he was not commended for his graceful Spitting; as if he did that also with greater wisdom than his Neighbours: but otherwhiles he was severe and well enough managed his matters. When he was *Prætor*, and made his Magnificent Shews according to the custom, though he was free above the ordinary rate; yet not able to bear up against the Petulancy of the Rabble, which still importuned him with its noise to bestow more upon unworthy persons, to manifest that he was Liberal, and yet a Despisor of the Multitude, he sent for some poor men out of the *Vatican*, and with great Gifts enriched them. But yet to shew his vain humour, one thing our Author saith will suffice, which though of small reckoning in it self, yet may be a Warning unto Governours: In all parts of the City, which had been adorned at the Expences of sundry Emperours, he caused to be engraven his own Name, not as a Repairer but a Founder: With which Disease (though he might better do it) *Trajan* the Emperour also laboured. *Lampadius* too was much molested by the tumultuous Citizens, especially at one time when the Rabble had certainly fired his House adjoining to the Bath of *Constantine*, had they not been beaten off by Stones and other things, cast from the tops of Houses by his Servants and Friends; and he himself was forc'd to run as far as the Bridge *Milvius*, before he could secure his Person. The cause of this Disorder was, for that in raising his new Buildings, and repairing the old, he made not provision for the Expence in the ordinary way

several *Præ-*
fets of *Rome*,
and their A-
ctions.

Sect. 2.

out of the Tributes or Revenues; but as there was need of Iron, Lead, Brass, or any such Materials, he sent out his Apparitors, who took them away from the Owners without any price or recompence. His Successor was *Fuventius*, from *Quæstor* of the Palace, a *Pannonian* by birth, a Person of Prudence and Integrity, who made it his business to render his Government peaceable, as well as acceptable for plenty of all things. But he was also plagued by the Seditious Humour of the People, and that by reason of a Contention of two persons for the Bishoprick, which we shall abundantly hear of in its more proper place.

A.D.
366.

Valens invades
the Territories
of the
Goths to no
purpose.

34. While matters proceeded thus disorderly in *Gall* and *Italy*, *Thrace* enjoyed as little quiet. *Valens* thought he had just cause to make War against the *Goths*, for having assisted *Procopius* in his Usurpation, and he had the consent of his Brother therein, according to whose pleasure and direction he ordered his Affairs. But first was sent to them *Victor* the *Magister Equitum*, to know the reason why they, being a Nation at peace and in League with the *Romans*, would joyn with a Rebel, who had raised War against his Lawful Sovereign. In answer to his Demands they produced the Letters of *Procopius*, wherein he affirmed that the Empire belonged to him as the Kinsman of *Constantius*; and thence they argued, that it was but an Error they had committed, and such as was very capable of Excuse. But *Valens* judged it quite contrary, and declaring their Answer to be frivolous, when Spring was well advanced marched against them, and having rendezvoused his forces near a Fort called *Daphne*, passed them over the River *Ister* by Bridges, as *Darius* formerly had done, beyond which (as that *Persian* King of old time) he could find no Enemy to engage, for out of fear they all fled to the Mountains of the *Serri*, which could not be passed but by such as were skilful in the ways. That he might not yet return without having something performed, nor be said to have mis-spent a whole Summer, he sent *Arintheus*, the *Magister Equitum*, to surprize certain Families wandering in the Plain, which had not reached their Companions, and so he returned, having neither done nor received any great harm. The year following he made Preparations for another Invasion with the same alacrity, but was stopped in his Career by the immoderate overflowing of the *Danow*, and constrained to stay near a Village called *Carpurus* till Autumn was already past, whence he retreated, and took up his Winter Quarters at *Marcianopolis*, as he had done the year before, being not able to enterprize any thing by reason of the greatness of the Inundation.

He orders
Money to be
paid in the
room of sur-
nishing Hor-
ses for the
War.

35. That both these years he resided some time at *Marcianopolis*, a City of *Myfia* inferior, and belonging to the Diocese of *Thrace*, is evident by the Subscriptions of several Laws, and of those some relating to Martial matters. Amongst other Burthens imposed on the Subjects of the Empire, as we have already hinted, was that of finding Horses for the Wars or other publick service; sometimes on one sort of People, otherwhiles on another, but especially on such who as Villains were bound and appropriate to certain Lands. Ordinarily they had been wont to discharge this Duty in kind, and furnish Horses as there was occasion; but now did *Valens* think fit to require Money in the room of them, either for that he found much fraud to be practised the other way, they often proving lame and unsound when to be used, (to prevent which Abuse yet there were several Officers wont to be employed;) or rather because under this pretence of Publick Service the Husbandmen were overburthened and disfurnished, to the great hinderance and decay of Tillage. Therefore that he might be sufficiently provided for this present War to the best ease of the People; he now by an Edict required, that three and twenty *Solidi* should be paid for every Horse; which Rate (however to him it seemed reasonable) was by following Principles thought Excessive, and brought down; who had in this subject great occasion to exercise their Indulgence, the poor Provincials being often much harraased by this Payment. But, as *Valens* thought fit there should be made an Exchange of Horses for Money, so by another Edict made the following year in this very place, and in relation to this very War, we find that there was the same course taken sometimes for Men or Souldiers. For hereby he declares his own Estate or Possessions to be free from finding of *Tirones* or new Souldiers, if Men themselves were to be provided; but otherwise chargeable, if Gold or Money in the room of them. For the Custom herein varied, not onely according to the variety of Times, but of Places also, some Countries and Provinces exceeding others in the strength and agility of their Inhabitants; the reason why the *Thracians* were especially made choice of for the Wars, and other Nations low of stature, and of slender Limbs, usually rejected, and Money taken in their place. But further, while *Valens* lay in Quarters at *Marcianople*, to provide for his Souldiers against the Winter in that cold Climate, by another Edict directed to *Auxonius* the *Præfect*, he caused a sufficient Supply of Clothes to be brought

Colonis obnox-
is & adscrit-
teræ.

Stratores.

L. 1. de Equi-
rum collatione,
Cod. Th. l. 11.
tit. 16.

L. 2. de Tiro-
nibus, Cod. Th.
lib. 7. Tit.

L. 2. de Mili-
tari Vestit, Cod.
Th. l. 7. tit. 6.

in

Sect. 2. in betwixt the beginning of *September*, (whence at this time Indictions commenced) and that of *April*, being indeed as other Writers observe) exactly careful to supply his Armies with all Necessaries. A. D. 366.

36. Three years he spent in this War against the *Goths*, and in the third Somer re-invaded their Countrey, by a Bridge of Boats laid over the River at *Novidunum*. He fell upon the *Gruthungi*, a most Warlike Nation, the chief Magistrate of whom, *Athanasius* by Name, a very powerful man in that Tract, opposed him with such Force as he could make; but the Emperour forced him to seek for safety by flight; and having nothing of greater moment performed, retreated to his wonted station of *Marcianople*, the most convenient place to winter in, in all these parts. The season for Arms being over, the time proper to Consultation succeeded, and some Accidents there were which gave both sides occasion to think of Peace. By reason of the Prince his Absence the East was exposed to great danger; and the Barbarians were much distressed by the discontinuance of Commerce for so long a time, which constrained them to send Embassadors, and beg a Cessation in a submissive manner. The Emperour as yet bearing an affection to Justice, and the Conveniences of his People, sent away *Victor* and *Arintheus*, who agreed on the Place and Preliminaries of a Treaty. *Athanasius* affirmed, That his Father had made him swear never to tread on *Roman* Ground, and it was no whit becoming the Majesty of the Emperour to go to him, and therefore they met in Boats in the middle of the River; where a Peace was ratified, and Hostages delivered on both sides. This done *Valens* returned to *Constantinople*, where *Athanasius* afterwards also died, being banished his Country by the opposite and most prevalent Faction, and was very sumptuously buried after the *Roman* manner.

A Peace made
betwixt him
and the *Gruthungi*.

49. While *Valens* was thus imbroiled with Wars in *Thrace*, *Valentinian* and the *Allemani* seem to have better understood one another, though this their Friendship not long continued. The year following after the Defeat given them by *Fovinus*, we find a Constitution directed to the same person, by name, as *Magister Militum*, whom therein he charges to take order with the *Duces* and *Comites*, and such as to whom the Custody of the *Rhine* was committed, that they should not permit the Souldiers upon the Borders to furnish those of the Bloud Royal of those Nations, nor their Embassadors, with Horses. But he enjoyns that they make use of their own, till they came to the place where the *Cursus publicus* begins, of which they are allowed to make use as well as the Messengers of the Provinces; and till they there arrived sufficient Provision should be made for their Cattel at the several Mansions. This Law bearing date from *Rheims* a City of *Belgica secunda*, where *Valentinian* then lay; to whom those Nations having such recourse, it argues, that for the present there was Peace betwixt them. But as the Law doth insinuate this, so on the other side, that it stood on such terms as obliged him to be watchful, and not to trust to his new Allies. For this Prohibition concerning the Horses of Souldiers was founded upon this Reason; Left by lending or letting them out they should be themselves disurnished, and thereby the Limits exposed unto danger. For by reason of the *Allemani* and *Francks*, their constantly feared IncurSIONS, there were, as is evident both from this Law and Histories, both *Duces* and *Comites* placed on the Borders of *Gall*, who lived after the manner we have formerly described; and besides them such as to whom the Custody of the *Rhine* was committed, viz. particular *Præfects* or Governours of the several *Præsentura* or Garrisons upon or near the River. But how little trust the Emperour gave to the Friendship of these Nations, further appears by another Edict within less than one Moneth, directed to the same person, and dated at the same City of *Rheims*; where in those days the *Magistri Militum* of *Gall* held their usual Residence. Therein he declares his Resolution to have his Troops completely filled, and for this purpose takes notice of and reforms another great Abuse practised at this time: It was the ordinary Custom for the Souldiers to take a long with them Youths of free and ingenuous condition, and with design to keep them free as to obligation to Service, to entertain them as Kinsmen, Peedees, or Attendants; and thus were such concealed, as intended to avoid the publick Service, or lifting themselves in the Armies: To remove which Inconvenience he commands; that the Souldiers produce all such Retainers to their Officers, who are enjoyned to present them before *Fovinus* the *Magister Militum*, under pain of being put down from their present stations to more inferiour places in the Army. And to such as detect any such Concealers he decrees Advancement. For, as there were several Degrees of Service in the Amy, one more creditable than the other, the Souldiers were often either preferred higher, or disgraced according to their Deserts. As sometimes an Officer from the Degree of *Tribune* put down to that

L. 9. de re militari, Cod. Th. Adest à Cod. Just. Regalis.

In the mean
time the *Allemani*
must keep
quiet.

But not to be
trusted.

L. 10. cod. tit.

Regradatio, militie mutatio, gradus distinctio.

of

Sec. 2.

of *Primicerius, Biarchus, Circitor*, or the like. Sometimes reduced to a *Tiro*, or the meanest state and condition. Otherwhile from an Horseman condemned to serve on foot, or reduced from an higher to a lower Degree of the Infantry.

A.D.

366.

Valentinian
determines of
what stature a
Souldier
should be.

38. Having taken this and other courses for supply of men, it was not his intention that all should be indifferently admitted to the Employment; but by another Law he shortly after declared, That the Stature of *Tirones* should be five Feet and seven ordinary or usual Inches, to be observed at all Listings under the *Vicar of Rome*, to whom (*Magnus* by name) this Constitution is directed. Formerly the Stature of Souldiers had been exacted to be six Feet, but this most rarely, and usually it stood betwixt five and six, sometimes seven, and otherwhiles more, Inches being required. There still wanted for the supply of Souldiers, a Law against such as by their own procurement were rendered incapable of Military Service: Some cut off their Fingers to prevent it, and such being in those times termed *Murci*, *Constantine* the Great had thought fit to condemn to the Service of Corporations; which Edict of his *Valentinian* judged convenient to mention and to establish; and further ordaining, that all who should in that manner be obnoxious for the time to come, should be burnt alive, and if he was a Slave, his Lord should, if he knew of it, be very severely punished. But it is to be noted, that these severe Laws had relation to *Italy*, where it was a Custom for the Inhabitants to draw their Necks out of the Yoke, and put other persons in their rooms, having been much of this humour ever since the days of *Augustus*. But while *Valentinian* still lay at *Rheims*, he not onely acted for the reinforcement and convenience of his Army; something he did for the relief of the Inhabitants of those parts. To such as being absent upon publick business had been too heavily taxed, he granted liberty of one whole year to appeal and right themselves: Whereas to such as were present or at home, five moneths were only allowed. It had been of a long time the manner of Princes, to prevent the counterfeiting of their Instruments, to use peculiar Characters or a select Form of Writing, which none were to imitate, none were to write but such as served in the *Scrinia* of the Emperour. But of late the *Proconsuls* of *Africa* or *Asia*, in their Relations or Consultations, had began in their Dispatches made to Court, to make bold with the same Characters, which others had dared to practise, drawn thereto by their example; and thence came it to pass, that the Emperours Hand and Letters were counterfeited, and thereby the Provincials cheated of their Money, and otherwise abused. To obviate such mischiefs by an Edict, he expressly forbids these Characters to be used any where either publicly or privately, but in his own *Scrinia*, or by the *Proconsul* or his Office; whose Authority otherwise was very great. This peculiar way of the Emperours Writing was with the *Sacrum Encaustum* or Purple Ink, which was ever forbidden to all sorts of persons, even the *Proconsuls* and *Prefecti Pretorio*. Yet did the *Questor* and *Prefect* make use of certain Majestick Forms of Speech or Titles, which the Emperours took to themselves, as *Nostra Serenitas*, *Nostra Mansuetudo*; but *Justinian* afterwards removed that Custom also.

L. 3. de Tironibus, Cod. Th.

L. 4. 5. cod. tit.

L. 5. de Censu, Cod. Th. l. 12. Tit. 10.

L. 3. ad legem Corneliam de falso, Cod. Th. l. 19. Tit. 19. Vide Com.

Condemns the
Murci to be
burnt alive.

Forbids Mag-
istry to use
his Ink or
Characters.

Makes a Law
to punish In-
grateful Sons.

39. From *Rheims* *Valentinian* removed further toward *Britain*, where now the *Picts* and *Scots* committed great Outrages; and by the way of *Nemasia* (now *Nemay*, where he signed another Constitution for the ease of the Subject in reference to Publick Payments) came to *Ambiani* or *Amiens*. Though so far distant from *Rome*, he cast not off his wonted care for the Concernments of that Place and Country; but being consulted by the *Prefect* of the City, by his Rescript gave order for putting the old Laws into execution, against ingrateful and disobedient Children. Whether by virtue of the Law of the Twelve Tables or otherwise, as Ingrateful *Liberti*, or such as had been set at Liberty by their Lords, and afterward demeaned themselves ingratefully towards them, were again to be reduced into Slavery: So also such Sons, as had been emancipated or set at liberty, from that Paternal Power which the *Roman* Laws gave their Fathers, (both over their Persons and their Estates) if they bare themselves contumaciously towards them, if they reviled or unjustly handled them, they were again to be reduced under their Authority and Command. But, as we judge from this Consultation of the *Prefect* of the City, (whose proper Office it was to determine matters belonging to Emancipated Sons and of Freedmen) such had been the Consequence and Fruit of the *Roman* Government, or else the natural Duty and Obedience of Children, that this Law had seldom been put in practice, else there would have been no occasion for the *Prefect* to have doubted, or any need for him to consult the Emperour, as he now did, being put upon it by some accident, of which we have not any account. *Valentinian*, as the Father of his Country, thought fit to shake off, and set forth to their view again, that Rod which had been cast into a corner, and by lashing of one to terrifie the rest, though

L. 3. de Pondatoribus, Cod. Th.

L. unic. de i gratis Liberi, Cod. Th. l. 8. tit. 14. Dat. 150. Sept. Ambian Lupicino & Jovino Coss.

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to his own Son, at this time for other great and weighty Reasons, he shewed himself very indulgent, the sixth day after the Date of this very Law.

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40. *Ammianus* writes, that about this time he had fallen dangerously sick, and when both he and others expected nothing but Death, at a private meeting of such *Galls* as served him, one *Possianus Julianus* had been mentioned for his Successor, one who had born the Office of *Magister Memoria*, but in the Opinion of the Historian a Person as greedy, of Mans Blood as a savage Beast, which he abundantly shewed when he governed *Africa* with Proconsular Power. This was with greater reason opposed by others, who with better pretence contended for *Severus*, then *Magister Peditum*, a man indeed very austere, but in all respects to be preferred before him. But the Recovery of *Valentinian* put an end to the Hopes and Disputes of both Parties; for he resolved when but in the way of Recovery, to give the Title of *Augustus* to his Son *Gratian*, though at this time but twelve years old, a Youth very handsome, and well enough inclin'd of himself, had he not been afterwards perverted by those about him. Having prepared the Minds of the Souldiers, when he came to ascend the Tribunal, he found no difficult work; for though he could allege nothing of moment concerning him that was to be preferred; yet with the sight of his own person, he inculcated the Merits of his Family, and being himself now recovered, and established, easily induced them to consent, and to proclaim *Gratian* Emperour in equal power. *Eupraxius* of *Cæsarea*, a Moor, and at this time *Magister Memoria*, first of all others acclaimed *The Family of Gratian deserves as much*; and being made *Questor* out of hand, continued a most just and painful Judge, never deviating from those Rules, which by Justice and universal Indifferency were prescribed him. Upon this new Promotion many persons exercised their Wits, and chiefly in commendation of his Person. But his Father is noted by the Historian for having exceeded the former Rule, in nominating his Brother and Son not *Cæsars* but *Augusti*. For in ancient times (you hear *Ammianus*) no man took to himself a Colleague with equal Authority, except the Emperour *Marcus*, who made *Verus* his Adoptive Brother Partner with him on equal terms.

Hæc non contradicunt exemplis Scæti et Diocletiani, qui non Collegas sui primùm Augustos, sed initio Cæsares tantum adscriverunt.

41. Matters having thus succeeded both according to the will of the Prince and Souldier, *Mamertinus* the *Præfectus Prætorio* was accused by *Avitianus*, formerly *Vicar*, of Extortion, and upon that account was *Vulcatius Rufinus* preferred to his place; a man very fit for the Employment, and to be revered for his gray Hairs, but ever seeking occasion to indulge his covetous humour. By his procurement *Orfitus*, who from *Præfect* of the City had been sent into Banishment, was restored to his own Countrey and Estate. And now the Humour of the Emperour, however cruel, yet hitherto for his own ends covered and with violence suppressed, could not but discover it self. *Diocles*, who had been *Comes Largitionum* in *Illyricum*, he commanded to be burnt alive, for very slender faults by him committed; as also *Diodorus*, who had been *Agens in rebus*, he ordered to be put to death, together with three *Apparitors* of the *Vicar* of *Italy*, for no other reason but because *Diodorus* commenced a Suit against a certain *Comes*, who was going to Court, and the *Apparitors* of the *Vicar* (according to their Office) admonished him to appear. And of those persons the Christians at *Milan* solemnized the Memory, calling the place where they were buried *At the Innocents*. Many in Corporations he commanded to be slain, who were preserved by the seasonable Interposition of *Eupraxius* the *Questor*, and *Florentius* the *Præfect*: If any declined the Jurisdiction of a Judge, as bearing him capital malice, to be sure he would (notwithstanding all Exception made) remit him and his Cause to the Award of the same person. And if any Debtor was found unable to give satisfaction to the Publick, he would pronounce that he ought to be put to death. Returning from *Amiens* towards *Triers*, he received News out of *Britain*, of great Slaughters and Waste made by the *Barbarians* in this Island; that *Nectaridus* Count of the Maritime Tract, or as the *Notitia* terms him of the *Saxon* Shore, was slain; and *Fultharides* a *Dux* was also circumvented by the Enemy. In great haste and consternation he dispatched away *Severus*, at that time bearing the Title of *Comes Domesticorum*, to put some stop to their Progress; but him he soon after recalled, and in his stead sent *Jovinus* with all speed to reinforce the Armies in the Island; for so the conditions of Time and Place did require. But still worse News arriving, in what danger these Provinces were, he made choice of *Theodosius*, a man of eminent note for Military matters, who with a courageous Army both of Horse and Foot, cheerfully undertook what was enjoyned him. Several years before this divers Alarms had been given, as in the tenth Consulship of *Constantinus*, and in the third of *Julian*, who then lying at *Paris*, and distracted by various Cares, thought

not

But *Gratian*
his own Son
he makes *Au-*
gustus.

He now discovers the cruelty of his Nature.

The Barbarous Nations rage here in *Britain*.

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not fit to come over himself, lest he should have exposed Gall to the cruel Rapines of the *Alcmans*; but sent *Lupicinus*, then a *Magister Militum*, both a good Souldier and very skilful, but proud as far as Insolence, and conceiving whom it might justly be doubted, whether he was more covetous or cruel. He brought over with him the *Heruli* and *Batavi* bearing Light Armour, together with two Troops of the *Masaci*, and landed at *Rutupie*, at this day *Ritchester* or *Richborow* by *Sandwich*.

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42. What particular Actions passed betwixt him and the Barbarians we do not know; but whatever he did to restrain them, by this time they were grown again outrageously insolent. *Ammianus* tells us, that in that place of his History where he had given Account of the Acts of *Constantius Caesar*, he had also described both the Nature of the Ocean, and the Island of *Britain*, according to his Capacity; and therefore he would not repeat any thing thereof to our great loss and sorrow, as it happened: For that part of his History hath miscarried, as also that of *Polybius*, wherein this more ancient Writer had described this Island so far as it was known in his days. He adds, That it shall suffice onely to say, that at this time the *Picts* were divided into two Nations, *Dicalidone* or *Caledonii*, and *Vecturiones*, besides whom there were the *Attacotti*, and the *Scots*, who roved up and down, and did very great Mischief; whilein the mean time the neighbouring Tracts of Gall were grievously infested by the *Franks* and *Saxons*; and each People strove as it were, which should exceed the other in Rapine, Burnings, and Leading away of Captives. *Theodosius* being sent to put a stop to those who harassed *Britain*, took Sea at *Banonia* or *Bulloign*, and safely landed at *Rutupie*; whence, after that the *Batavi*, *Heruli*, *Jovii*, and *Victores* were arrived, he marched toward *Lundonium*, an old Town, which Posterity called *Augusta*; and dividing his Forces into several Parties fell upon the Rovers, while scattered up and down and loaded with Booty. The Plunder and Captives he recovered; and having restored all to the Owners, except some small portion bestowed on the weary Souldiers, he returned to the City in a triumphant manner, which exceedingly incumbered before with Difficulties, he had hereby restored to its ancient Freedom. Now entering into a serious consideration what was further to be done he found by what he got out of Prisoners and Fugitives, that his numerous and fierce Enemy consisting of divers Nations, was not to be mastered but by Stratagems and sudden Attacques. First therefore by Promises of Impunity he reduced most of those who had forsaken their Colours, or stragled abroad, to their Arms; and to use still greater caution he sent for *Civilis*, to govern *Britain* as *Vice-Prefect*, a man of an haughty nature, but very just; as also *Dulcitius*, one of the Dignity of *Dux*, and famous for his Military Skill.

Theodosius sent
to repress
them.

Africk also in
a sad condi-
tion.

43. So went matters in *Britain*, while *Africk* ever since the beginning of *Valentinian* had groaned under the Rage and Cruelty of the Barbarians, in no less degree; the IncurSIONS of whom had been furthered by the negligence, sloth, and greediness of the Army. Most remarkable was the Rapacity of *Romanus* the *Comes*, who strove as it were to exceed the diligence of the Enemy in pilling the Provinces; yet being so cunning as to decline the *Odium*, he made use of his Affinity with *Remigius*, the *Magister Officiorum*, who ever told a fair Tale to the Emperour, and thereby kept him utterly ignorant of the sad estate of that Countrey, what wariness soever he pretended to. And indeed *Ammianus* writes in plain terms, That *Valentinian* was the first who encouraged and promoted the Insolence of Military Men, against the common good of the Empire; and how it is a matter to be lamented, that punishing with all cruelty the ordinary and common Souldier, he connived at the Crimes of the great Officers, who taking courage at this Impunity proceeded in those courses, as having the Fortunes of all men in their power; whereas of old time there was so great care taken, that the Commonwealth might not be oppressed through their Insolence, and too well known Ambition, that ancient Lawmakers chose rather to have some suffer innocently, than their Faults to go unpunished. But, at the same time the Barbarians brake into *Isauria*, where depopulating the Countrey they invaded *Pamphylia* and *Cilicia*, which they treated in the same manner, proceeding in their Rapines without any opposition: At length *Misomius* the *Vicar* of *Asia*, who had formerly professed Rhetorick at *Athens*, fell upon a Party of them, but so ill disciplined were his Troops, that he was circumvented, and cut off with all his Men. The Rovers encouraged by this Success pursued their course, till more Forces coming upon them, drove them into the Straits near the Mountains, where being closely shut up, and finding no means to escape, they begg'd Peace by the Perswasions of the *Germanicopolitans*, a People of great Authority amongst them, whose City *Germanicopolis* was the Chief and Head

Together
with *Isauria*,
and other
Provinces.

The Barbari
are restrain'd.

of

Seet. 2. of all that part of *Isauria* they possessed, as *Seleucia* the *Metropolis* of what of that A.D.
Country belonged to the *Roman* Empire. Peace being granted them, and their 3 6 7.
Hostages received, they kept themselves quiet for a good space, attempting nothing of Hostility. *Val. Hist. in no*
tu ad Am. l. c. 8
l. 27.

44. At this time *Prætextatus* exercised the Office of *Præfekt* of *Rome*, and that with such Integrity and Courage, that he might justly be reckoned amongst those few who were both feared and beloved. By his Authority was appeased a great Tumult and Disorder, which had been raised about the Election of a Bishop. He took away *Balconies*, or Galleries made on the sides of Houses, which had been forbidden in the City by ancient Laws, being called *Mæniana* from one *Mænius*, who having sold his House to *Cato* and *Flaccus*, then *Censors*, for the building of the *Basilica Porcia*, excepted out of the Sale one Pillar, on which he laid Timber that jutted forth, and built a Balcony or Scaffold, whereon he and his Family might behold the Fights of the *Gladiators*; which Act was imitated by others, till restrained by the Laws. *Prætextatus* further caused a Distance to be made betwixt publick Buildings and private Houses; and in every Region appointed certain Weights, observing that unjust and covetous persons changed and counterfeited them at their pleasure. In point of Judicature he had that advantage of others, which *Cicero* ascribes to *Brutus*, that although for favour he did nothing, yet on whatever he did, a favourable Interpretation was put. About this time one *Rando* an *Alleman* of Royal Descent, having long cast in his Head how he might do it, fell suddenly upon *Moguntiacum*, not fortified by any Garrison; and by reason that the Inhabitants were busied by the Celebration of a Christian Solemnity, (as *Ammianus* writes) easily made himself Master of it, and departed with Plunder, and so many Prisoners as he thought convenient. After this *Vithicabius*, the Son of *Valdomarius* their King, was murdered by one of his own Servants, that held Intelligence with the *Romans*, a cunning man, who could be removed by no other means than that of Treachery. *Valentinian* thought fit to make more than ordinary Preparations to prevent that Hostility which thereupon he could not but expect; and taking his Son *Gratian* along with him, passed the *Rhine*, and invaded their Territories, where for a good space he could light of no Enemy; but at length discovered them encamped on an Hill, whence he beat them down, and got a notable Victory. This done, the Souldiers went into their Winter Quarters, and the Emperours to *Triers*. *Ita per officium, cum gratia causa nihil jactas, omnia taceant sine gratia quæ sitis.*

45. To *Prætextatus* the *Præfekt* of *Rome* *Valentinian* directed an Edict, by which he demonstrated how studious he was of the Reputation and Safety of *Senators*. This *Præfekt*, as we have several times hinted, was the proper Judge of persons of that Dignity, so as in those days no Judge of a Province could censure them for any Crime. However now *Valentinian* commands, that before the *Præfekt* should come to sentence, the whole Process be transmitted to himself, to whom he reserves the cognizance of the Cause, and the appointment of the Punishment: so great seemed his care for men of their Rank and Quality. Yet nine years after his Son *Gratian* thought fit to alter the form of their Trials, and indeed to abrogate this Law: For by a new Constitution he permitted the ordinary Judges or Governours of Provinces to have Cognizance of these matters. But then again withall he gave leave to the *Præfekt* of the City to determine the matter, and also to inflict what Punishment he thought fit; which *Valentinian* by no means suffered. Then whereas formerly it belonged to this *Præfekt*, to hear and determine these Criminal Causes, in what Province soever the *Senator* lived; *Gratian* limited his Authority to the *Suburban* Provinces, giving to the *Præfekt* *Prætorio* Jurisdiction over the rest; and when the *Præfekt* of the City judged them, it should be by the assistance and concurrence of five other persons. And so did *Gratian* partly enlarge, and partly diminish the Power of the *Præfekt* of the City, whose Jurisdiction became in those times more appropriate to the *Suburbicarian* Provinces, and that of the *Præfekt* *Prætorio* more and more increased. As *Valentinian* concerned himself for the Privileges of *Senators* really such; so by another Constitution, directed shortly after to the same *Prætextatus*, for such as obtained the Honourary Title thereof, without the Burthens thereunto belonging. These were they who had discharged duly the *Palatine* or Court Employments, particularly *Notaries*, and such as served in the *Scrinia*, *Agentes in rebus*, *Admissionales*, and the rest. When they went out of their Services they were advanced to the Degree of *Perfectissimi*, or, if *Comites* or *Tribunes*, to an higher rank of Honour; receiving commonly Letters Testimonial from the Prince, directed to the *Præfekt* of the City, being the Judge or Keeper of Dignities. But *Valentinian* observed, that by so great Indulgence to all sorts of persons, *L. 10. de Privilegiis, Cod. Tit. l. 9. tit. 4. L. 13. de Affectation.*

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the Duties incumbent upon *Senators* were badly performed; and therefore he resolved to make a distinction, which was, that the Privilege of *Adlection* (as it was called) or of merely enjoying the Dignity and Privilege of Senators, without being necessary to Duties and Employments, should accrue to such as from the first and lowest degree had arrived at that of *Perfectissimus*, though without the Prince his Letters Commendatory; but as for these of higher Rank, as *Comites* and *Tribunes*, they should no otherwise obtain Freedom from such Burthens, than by Letters from the Emperour to the Prefect, wherein their Service and course of Life should be approved. For such as proceeded to the Rank of *Perfectissimus*, arrived at it by degrees, passing through all inferiour stations; but such as were made *Comites* and *Tribunes* ordinarily attained it *per saltum*, and for favour: And therefore these Letters Testimonial in their behalf seemed to him to be requisite: Those that obtained Letters Testimonial had also other Letters called *Tractoria*, granted by the *Praefectus Praetorio*, for the furnishing them with the *Cursus publicus*, and Provisions in their Travel homewards. But such were wont to sell and make Merchandize of them, having no need of them themselves; which practice this same Emperour forbids in his first Constitution now extant of the following Year.

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L. 7. de Privilegiis, qui in laetitia palatii militant, Cod. T. l. 6. tit. 35.

L. 1. de Tractoriis, Cod. Th. l. 8. tit. 5. Et de variis Tractoriarum acceptationibus. Vide Gothofr. in l.

Regulates the Physicians of the City of Rome.

46. Having otherwise well provided for the Sustenance and Conveniences of the Citizens of *Rome*, this same Year being of our Lord the CCCLXVIII. by another Edict he made as good provision as he could for their Health, thereby regulating the number and maintenance of their Physicians. These were the *Archiatři populares*, as they were called, of whom he ordains that each Region of the City have one, besides those that belonged to the *Porticus Xysti*, where the Fencers exercised, and to the Vestal Virgins. Not that we are to imagine, there were but fourteen Physicians in all *Rome*, because there were but so many Regions; for many more doubtless practised in that City, called by the richer and nobler sort as their Judgments or Fancies directed; but the *Archiatři* were such as were hired on the publick charge, to visit the poor and take care of those who could not see the others as they expected. They had Allowance assigned them out of the *Annona publica* or *civica*, for out of that Revenue were not onely sustained the Citizens, but Allowances made to several Officers besides, as to the publick Physicians, to the Vestal Virgins, to certain called Antiquaries at *Constantinople*, who looked to the publick Library. As *Valentinian* by this Law allows of their Salaries, so he obviates their Avarice, requiring them not to accept of what sick men and such as were in danger promised them; but onely what those who had recovered by their Assistance would willingly confer on them; according to the Oath of honest *Hippocrates*, who swore he would do his best endeavour for all sick persons, of what sort, degree, or condition, without expectation of Reward or any Contract. Indeed the Anxiety and Distress of such persons in pain hath so much pity and regard from the Laws, that immoderate Donations, Obligations, Promises, and Sales made by any at such time, and in that condition, have onely the Prescription of thirty years. And the immoderate Fees of a Physician are to be regulated after the Rule of Indifferency by the Judge; this same being to be observed by those that receive no publick Stipends, as is enjoined by this Constitution. In the last place he enacts, That in case of the Death of any of the number, the defect should be supplied not out of favour to any Great Man his Intercession, or the Power of any Magistrate, how great soever; but by the Choice of the *Archiatři* themselves, who having made it with all care and circumspection, should thereof certify the Emperour. He seems to have been consulted upon this subject by that memorable Prefect of the City *Prætextatus*, to whom this Edict is directed, as many more.

L. 8. de Medicis & Professoribus, Cod. l. 1. tit. 3.

Ar. de medicis & professoribus, Cod. l. 1. tit. 3. Vide Gothofr. in l.

Takes care that the People should not be oppressed by Officers and Magistrates.

47. While he lay at *Coloine* to provide against the Inroads of the *Franks*, he considered, that his Subjects of the Northern Quarters might be harassed even by Friends (though not in so great a measure) as well as by the Enemy, the Insolence of Officers as well Civil as Military, in those days being very great. He directed an Edict to *Probus* the *Praefectus Praetorio* of *Illyricum*, to provide against those who under pretence of publick Service, would impose Burthens or Trouble upon Countreymen. He prohibits the compelling of them to any Service in their own persons, or by their Slaves or Cattel; or the receiving of any Gifts or Pensions from them. Which later had been so ordinarily practised, that it became as it were a lawful (or, as the term of the times was, a *canonical*) Payment: In like manner as Souldiers in this Age were wont to require Suppers, Junkets, and Baths, nay Free Quarter from those that harboured them; and the *Tribunes* themselves exacted Gratuities for their Souldiers, besides what was wont to be screwed out of the People by such as carried joyful News into the Provinces. As the other Practices were forbidden by other Laws,

L. un. Ne Damna provincialis libus, Cod. Th. l. 1. tit. 11. Dat. Agrippine prid. cal. Octobris.

Sect.3. Laws, so in this whereof we now speak, *Valentinian* shewed his severity against the *Officials* of Governours of Provinces, in three particulars. First, he Prohibits not only such things to be Exacted by *Officers*, but the Country man himself, he forbids to Pay them, lest any excuse might thereby be pretended for the Crime! In the second place he inflicts Confiscation of Estate, and death it self, upon such as either should Exact, or receive such Presents or Services; in the room of which Punishment, *Tribonian* in his Law, which he interpolated from this, imposeth perpetual Banishment. But, what shewes the heaviest Severity imaginable, In the last place, he subjects those that Voluntarily Pay such Services, or give such Presents, to the same punishment, as the Exactors and Receivers; It seems the Condition of the Times required it.

48. About the same time, *Valens* in the East, as if had been on purpose to give Incouragement to those *Cohortales* or *Officials* of the Provinces, whom his Brother discomposed by so Severe a Constitution, Resolved to maintain them of his District, especially of *Syria*, in their wonted Privileges. By an Edict directed to *Festus* the *Consularis* of *Syria*, He Confirms to them all Immunities, which had formerly been Granted them by *Dioclesian*. These were freedom from the *Bestiagum*, or Carriage by Beasts, imposed on some sorts of People; from the Charge of the *Navicularii*, and from being forced against their Wills, to the Services of *Corporations*, which things had formerly been Indulged by *Constantine*, who Abrogated the Law made by *Maxentius* to a contrary purpose. "In Case they had passed their Determined Time and Courses, and Namely, that of providing Necessaries for the Souldiers, which was their main Work, then should they be excused from any such Services. And as *Valens* Incouraged hereby the Officers of the Ordinary Magistrates, for all that he was rather more kind to the *Provincials* or Countrey men themselves, as both several Laws do testify, and as Historians and Orators do Witnes for him. "About this very time, by a Law, he took care that such should have their *Defensores*, even as the Cities had theirs; under whom they should have their Causes in Pecuniary Matters Decided. But it seems, his Indulgence was abused by such kind of Men, who, as we have already seen, in the dayes of *Constantinus*, when they had their own proper *Defenders*; yet to shun the heavy burthens of Taxes, were wont to flie to the Protection of Great Persons; and give up all they had into their Hands, oftentimes to shun one Evil incurring a far greater Mischiefe. To prevent the loss of the Treasury, and their own misery; he directed a severe Edict to *Auxonius* the *Præfectus Prætorio* of the East, Commanding upon pain of death, all Husbandmen, or Tillers of the Land, to abstain from such Applications. And all such as should receive them into their Patronage, as often as they could be found upon the Grounds, should pay a Fine of sixty five pounds of Gold, and besides, half of the Land so received into Patronage, should be Confiscate; which he hints to have been less than such Patrons were wont to take from their miserable Clients, for their Protection.

49. The following Year, which was the last of the *Gothick* War, managed by *Valens*, being of our Lord the CCCLXIX. had for Consuls, *Valentinian*, the Son of *Valens*, with the Style of *Nobilissimus Puer*, and *Victor*; wherein *Olybrius* was *Præfectus* of *Rome*, *Auxonius* still *Præfectus Prætorio* of the East; *Probus* of *Illyricum*, and *Nb. P. Italy*, and *Africk*; and *Viventius* of *Gall*. *Valentinian* the Emperour continued at *Triers* till the Month of *June*; as several Constitutions do testify, imploying himself well nigh the whole year in Fortifying the River *Rhine*; from the beginning of *Rhetia* as far as the Ocean, with great Rampires, Castles and Towers all along the Coast of *Gall*; And in some places, he raised Fortifications beyond the River, in the Enemies Countrey, to hinder the Excursions of the *Franks* and *Allemands*. For this purpose he removed from *Triers*, and by the Date of several Laws, we find him at *Complutum*, *Martiaticum*, *Alte Ripe*, and *Brisiacum*, at which Places, what Laws of Concernment, and proper for the Readers knowledge he made, it will behove us to mention. Towards all the preparations, in order to his Securing the Provinces, and Reinforcing his Armies, it was necessary there should be continual Supplies of Horses and Materials. Now throughout the Provinces there were certain Companies, or Bodies of Men, destined to the Conveyance of the Publick Provisions, and Necessaries for War, or the Prince his Use; but often it happened that their work was too great; and for supply the Country Man was Pressed to put to his helping hand, to the great hindrance of Tillage: so it hapned at this time, and the *Provincials* were therewith so much oppressed, that by an

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Edict to *Viventius*, the Emperour takes notice of it, as an unlawful Practice; and yet that his Occasions might be served, he Commands that for the time to come, such as kept Victualling, or Tipling-Houses, should be compelled, as idle Persons, to supply the places of those whom the Countries could by no means spare. He took notice of another great Abuse committed against miserable People, under pretence of Treason, or of Estates, by other Courses of Law, falling to the Emperour, as where no Heirs were to be found; for Rapacious Officers, or Malicious Neighbours would affix Titles to Houses, or Lands, denoting them to belong to the Prince, which by a Law directed to *Florentinus* the *Comes Rei Private*, he indeavours to prevent. "He Ordains that upon any such Occasion, there be Solemn Proceeding had, both by the said *Comes*, and the *Rationales*, (under his Disposition) in all the Provinces; that an Account be taken of all perticulars; and the Titles affixed to any such Estates, be not made without sufficient Testimony.

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L. 1. Ne opera
Consuloribus
exigantur. Co.
Th. lib. 11. Ti.
10. & L.
un. Cod. Jus.
cod. Tit. pri-
mam tantum
habet sententi-
am.
L. 1. de Incor-
poratione. Co.
lib. 10. Tit. 9
& 1. 3 Cod.
Jus. de vo-
nis vacant.
in corporat.

Particularly
some Commit-
ted by the
Judges in
their Circuits.

50. But, to prosecute further the Reformation he intended, he resolved to go to work with the Governours of Provinces themselves, of whom several he put to death, for their Avarice and Oppression, amongst whom one *Rhodanus* the Master of his Palace. And lying now at *Triers* in Springtime, he considered that the Governours, or Judges, would soon begin their Annual Progress, or Visitation. For it was the custom for them to lie in Winter in the Chief Cities, or *Metropoles* of the Provinces, and there Administer Justice, and Determine Causes; but in Summer, the better to understand the Wants and Complaints of the People, to provide for the plenty and cheapness of Provisions, for the Payment of the Publick Revenue, and the like, they were wont to Visit other Cities and Places within their Districts, and make a Progress, or take a Circuit throughout the Provinces; which that they might the better do, they were allowed the Use of the *Cursus Publicus*, and in each City, were entertained for three days by the *Curiales*, and Merchants. But instead of making their abode in the most Publick places, where the People might have best Access, some were wont to betake themselves to places of Retirement and Pleasure, where they might solace themselves with such Company and Divertisements, as they best liked. Of this he takes notice, and by a severe Edict, directed to *Viventius* the *Præfekt*, on the first of April, Commands, that each of these Judges there make his abode where the People may best come at him, and not chuse out any place for Delight; adding further that whosoever shall in a Progress entertain any Governour of a Province at his House, shall Forfeit the Land whereon it stands, to the Publick Treasury. And by this means he saith, these Governours may be induced to repair or build up the *Mansions*, by which are meant either those properly so called (wherein the Emperour and the Souldiers reposed themselves in their marches, that were furnished with Granaries, and Houses for Provisions; of which, together with the Mansions themselves, these Governours had the Charge) or else Houses of Judicature, which sometimes are also termed the *Mansions* of Judges. This Severity *Valentinian* used, to restore to the People the ancient Advantage received by these Circuits, which to Reinforce, as he by this Law requires the Judges to make choice of such places, as wherein they might give easiest Access; so on the other side, by *Majoranus*, afterward were the *Agents* and *Procurators* of the Emperours Lands, of the Lands of Senators and Great Men, ordered to give their Attendance upon them so long as they continued in those places, for the better Payment of the Publick Duties, wherein often those Officers would be behind. But yet *Valentinian* his Care for the Use of those Circuits, was not satisfied by this Law directed to *Viventius*, for on the same day, he gave out another on the same Subject, to *Probus* the other *Præfekt*. In this he requires that those Judges, pass through all the Villages, and Towns, as speedily and often as they can, and there diligently learn of private Persons, what Insolent or Rapacious Act had been Committed by any *Compulsor*; who, if thereof detected, and his Matter Presented to the Emperour, should be put to death. This *Compulsor* was an Officer who Collected the Publick Tributes, or who after the Collector, was appointed to be earnest with the People, and Compell them to Pay, by whom they were often very cruelly handled.

L. 4. de Officiis
Rektoris Pro-
vincie. Cod.
Th. lib. 1. Tit.
Abest a Cod.
Jus. vide Con-

C
h
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I

L. Prox. to
Tit.

51. Several other Edicts *Probus* received at this time, some of which we shall not trouble the Reader with, as not so proper for his knowledge. But *Valentinian* having lately Published one for the ascertaining of Confiscate Estates, yet found it not sufficient; but so that he was cheated, either by those that seized them,

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*l. 7. de bonis
proscriptorum
Cod. Tit. lib. 9.
Tit. 42. de l. 7.
Cod. Tit. lib. 1.
Tit.*

Quæst. de l. 1.

*Nostro rei l. 1.
de Patrimonia.*

*L. un. de Obla-
tione Equorum.
Cod. Tit. lib. 7.
Tit. 23. Abest
hic tit. à Cod.
Justin.*

*Pannis for l. 1.
dus.*

*L. un. de annona
Civiliis de pa-
ne gradili. l. 1.
Tit. lib. 14. Tit.
17. Abest
Cod. Tit. lib. 1.*

Sect. 3.

them, and concealed part of what they found, or by such as begged the Estates, and kept him ignorant of the true Value; so that he understood not the measures of his own Bounty. To *Probus* therefore he directed another Constitution, which is especially taken notice of, and by Lawyers esteemed as most Elegant. That there might remain no place for Fraud, he orders a double Inquisition to be made: The first by the Officers of the Ordinary Judge, or Governour of the Province, who should make a most full and Comprehensive Inventory, and transmit it to the *Rationalis*, belonging to the *Comes Rei privatae*, which before this had never been done. Then were the Officers of the *Rationalis* to take another Account, and send up the first Survey to the Emperour, that in case those belonging to the Ordinary Judge, had concealed any thing, they might be condemned in the double Value of it. The form of the Inventory, because said to be the most exact Pattern of all others, was this: What the quantity of the Ground was, and what its Nature or Quality. How much was Tilled, and what was untilled. How much in Vine-yard, Olive-yard, Arable Pasture, or Wood. What Conveniency belonged to the Place, and how pleasant or delightful it was. With what Buildings or other Contrivance it was furnished. How many Slaves belonged to the Place, whether they were Countrey, or City Slaves, and what were their Qualities, or Indowments? What Husbandmen there were, and what Tenants that held portions of Land; as here in England, by slides. What numbers of Oxen for the Plough. What and how Distinct Herds of Sheep, or Cattel. How much Gold or Silver, Cloaths, or Jewels in *specie* or in Weight; and of what sorts. And lastly, what Furniture, either for a City House, or a Countrey Farm. By this may be seen how exact *Valentinian*, or the Lawyers about him, was in things of this Nature; that as well Moveables, as Immoveables, were Confiscate to the Treasury of the *Res privata*, or annexed to the Patrimony of the Prince; and that this Silver and Gold were not wont to be brought into the Treasury of the *Comes Sacrum Largitionum*; (the Lands being united to the very Patrimony, as some have held) for the Law Declares it otherwise in express Words.

52. To the same *Probus*, he issued out another Edict, which was received at *Sirmium*, on the sixth of June, Concerning the finding of Horses for the War, by such as by *Codicils*, or Letters Patents, had obtained Dignities. Those Persons were obnoxious to various and Extraordinary Services, or Payments, and upon that account, were wont often to be much vexed by the Emperours Officers, who would still be upon them upon all occasions, and make them pay for their Aery Honours, particularly for Horses, as well as other matters. Whether now, at the Petition of some of them, or induced by other Motives, for their future ease, he settled this matter so, as that He who had by such Honorary *Codicils* or Letters obtained the Dignity of *Comes*, should every fifth year find three Horses, and He that had procured that of *Præses*, only two; the former Honor being esteemed the greater of them. Having ever a great care, for the subsistence of the Citizens of *Rome*, by another Edict directed to the People themselves there, he removed an Abuse Committed against the Publick Charity. Out of the Provision made for the poorer sort, which they termed *Annona Popularis*, and *Civica*, twenty loaves of Brown or Course Bread, was wont to be sold to poor people at a small price, or easie rate, wherein the Benefit, or Advantage consisted. But what was intended for the benefit of the poor, was fraudulently drawn to the use of other Persons, who came in with the poor, and made the same Market of this course sort of Bread. As first the *Officials*, or *Apparitors* of the Ordinary Judges, who had other Allowances belonging to them as such. Then some sent amongst them their Slaves, who under a Covert of Freedom, laid hold of this occasion to cheat Indigent Citizens; and besides these, such as had Bread distributed to them by reason of, or belonging to their Houses, pretended, and made bold to challenge this Privilege also. *Valentinian* to reduce things to the design of their first Institution, by this Edict directed to the People, alters quite the Custom; for instead of their twenty course Loaves, which containing fifty ounces, were sold to them at an easie rate, he Ordaines they shall have gratis, or on free Gift, six Biskets of clear Flour, whereof each should weigh six Ounces. All *Officials* Slaves, or any who obtained Bread by right of his House, he forbids to pretend to this Privilege, upon pain of losing such Allowance, as otherwise belonged to him; or of Corporal Punishment. If any shall sell his Right to this Bread; to such as Accuseth and detecteth him, he grants the Allowance, both of Buyer and Seller; if it was received upon other Stairs, or

Degrees,

He takes a
urer Course
or ascertain-
ing Confisca-
ed Estates.

Orders how
such as had
obtained rita-
lar Dignities
should find
Horses.

Restores the
Advantage re-
ceived by
Bread, to the
Use of Poor
Citizens.

Degrees, than belonged no the Seller Originally. To this end he Decrees, " that upon these Stairs, should a Table of Brass be fixed, whereon both the sort and quantity of Bread, should be Ingraven, and the Name of the Person that was to receive it. And if any caused these Tables to be falsified, by putting there- in their own Names, they should be obnoxious to Punishments largely recited. " This Law was Published at Rome, on the first of August. A.D. 369.

53. But thus stood Matters in the West, when Sapor the old King of Persia, who from the beginning of his Reign, was accustomed to Rapines, having for some time concealed his Design, openly broke that Infamous Peace made with Jovian, by laying hold on Armenia; which, after tampering to allure the Nobility and terrifie the Ordinary sort, he now openly Invaded. Then having by horrible Perjury drawn Arsaces into his hands, he put out his eyes, and sent him away to a Castle called Agabana, where he was Murdered, and driving out Sauromaces, whom the Emperour had set over Iberia, he put in his Place one, Aspachuras, and Honoured him with a Diadem. These Devices so well succeeding, he Committed Armenia to Cylax the Eunuch, and Artabanes two Fugitives, whereof one had been formerly Prefect, and the other Magister Armorum of that Countrey, with Orders to take and Raze Artogerassa a very strong Town, wherein as yet were preserved the Wife, Son, and Treasure of Arsaces. They made means to get into the Place, and endeavoured to persuade the Queen to yield; but were so wrought upon by her Lamentations, that they agreed to suffer the Besieged to Issue out and surprize their Enemies, which being effected, the Queen sent away her Son Paras into the Roman Dominions, where he was kindly received by Command of Valens, and appointed to reside at Neocesarea, a noted City of Pontus Polemoniacus, part of Pontus Euxinus, which according to the variety of Nations, it passed by, received several Names, as besides Pontus properly so called, Pontus Galaticus, Polemoniacus, and Cappadocius, for so were the Provinces Called. With this kindness of the Emperour, Cylax and Artabanes encouraged, sent to him to desire Aid, and that Young Paras might be their King. No Assistance was granted presently, but Terentius a Dux of those Quarters, was Ordered to bring Paras into Armenia, to Rule, yet without Ensigns of Majesty; which was Cautiously observed, lest Sapor being much irritated, by what had formerly passed, should have just Cause to Object to the Romans, the breach of the Peace.

54. But hereat being above all measure enraged, he invaded Armenia, and laid all waste before him, and therewith were Paras and his two Governours so terrified, that without thoughts of any Opposition, they betook themselves to the Mountains, which lay betwixt the Roman Borders, and Lazica, beginning at Rhisfaume, and Inhabited by Free People, which was neither Subject to the Emperour nor the Lazzi. The King hunted after them, but to no purpose, and therefore having wasted the Country, he laid siege to Artogerassa, which he took and burnt, and carried away the Wife and Treasure of Arsaces. There being now sufficient Advantage given to begin a War, Arintheus was sent with an Army to assist the Armenians, in Case the Persian should Invade them, and this Sapor understanding, betook himself to his Craft; which but seldom failed him. He now fell on Courting Paras, and by fair Language invigled him, representing to him how dishonourable his present Condition was, which he termed no better than Slavery; so that the foolish Young Man, Cut off the Heads of his Masters (as Sapor cunningly called them) and sent them to him. By this means he had assuredly been Master of Armenia, but that his Men were discouraged by the coming of Arintheus, so that he only required of the Emperour, that according to the Articles of Peace made with Jovian, no Aid might be granted to that People. This was absolutely denied; and further Terentius was Commanded, with twelve Legions, to Convey Sauromaces into Iberia, whom, when he now drew near the River Cyrus, Aspachuras desired that being Kinsmen, they might Reign together; alleging that he could not yield, nor joyn himself to the Roman Side, because his Son was an Hostage with the Persian. The Emperour being hereof informed, was content to Compose the Affairs of Iberia in as gentle terms as could be; and Agreed, that whereas the River Cyrus divided the Country, Sauromaces should have for his Share, that Part that lay next to Armenia and Lazica; and Aspachures receive the other half adjoining to Albania and Persia, Sapor was vehemently disturbed at this Agreement; Exclaiming, that, contrary to the League, Armenia was Relieved, his Embally slighted, and Iberia Divided without his Concurrence or Knowledge; and he made all possible Preparations, both at Home and Abroad, to undo what had been done against his Mind.

ect. 2. 55. In the mean time *Valens* the Emperour was not negligent of his Affairs; but having time enough vacant from such Employments, by several Laws amended the State of the East as he saw convenient himself, or by the Lawyers was suggested to him; which Laws relate to such matters as we judge not altogether proper for us here to take notice of. But at *Rome* horrible Murders were committed at this time by procurement of *Maximinus* the *Præfectus Annonæ*, a man of prodigious Covetousness and Cruelty. Being but of mean Birth, as the Son of one of the *Tabularii* belonging to the President, and meanly Learned, he put himself so much forward as he got the Government of *Corfica* and *Sardinia*, and afterward came to be *Correktor* of *Tuscia*, whence he was preferred to have the care of the *Annonæ* or Provisions of the City: And as Impudence and Flattery commonly succeed, at length arrived at the Dignity of *Præfectus Prætorio* itself. Occasion was given to his enormous Proceedings by one *Chilo*, who had been a *Vicar*, and his Wife *Maxima*. They complained to *Olybrius* the *Præfect* of the City, that their Lives were in danger to be taken away by Poison, through the Practices of *Sericus*, *Asbolius*, and *Campensis*, three Persons of mean Condition. It happened that *Olybrius* at this time was sick, and the Complainants impatient of Delay, petitioned that the matter might be referred to the *Præfectus Annonæ*. The Reference was made, by which opportunity *Maximinus* shewed the Cruelty of his Nature, no more capable of pity or moderation, in the Judgment of *Ammianus*, than that of a wild Beast upon the Theatre let loose from its Den upon the Prey. Much ado he made, many Examinations, and by Whipping or other Tortures having furrowed the Sides of such as were suspected, they accused some Noble Persons, as having by their Clients managed this clandestine Practice; with whom not able to deal as he did with them of low condition, he most wickedly affirmed by way of Consultation to the Emperour, that so great were these Misdemeanours in *Rome*, that they could not be reformed but by severe Proceedings. *Valentinian* was enraged at this Misreport; and being by his own inclination (as the Historian terms him) rather a bitter than a severe Enemy to Vices, by one Edict in reference to Causes of this nature, which out of design he confounded with matters of Treason, he ordained, that those persons should be subject to Tortures, whom the Justice of ancient Laws, and the Wisdom of Princes, had thought fit to exempt from bloody Inquisitions.

56. And to strengthen the Hands of *Maximinus*, he conferred on him the Title of *Vice-Præfect*, and joyned with him one *Leo* a *Notary*, a *Pannonian Hackster*, who breathed nothing but fury, and was most thirsty after Mans Blood. *Maximinus* wonderfully pleased with the Humour of his Colleague, and tickled by his new Honour, now seemed to fly, and not to walk after his Game. Innumerable were the Outragious Acts he committed, amongst which the Case of *Murinus* was very remarkable, who being a Pleader of Causes was accused by ill arts to have attempted Marriage with one *Hispanilla*, and for this after a slight hearing was sentenced to death. Besides him *Cethegus*, a Senator, upon pretence of Adultery was beheaded: *Alypius* a young Nobleman, for a very slender fault sent into Banishment: and other obscure persons openly executed, with the sight of whom every Citizen was so affected, that therein beholding his own danger, which he knew not how near his door it might be, he dreamed of nothing but Tortures, Fetters, and Prisons. At the same time *Hymetius*, a man of great worth, governing *Africk* as *Proconsul*, being overcome by the grievous Complaints of those of *Carthage*, who were almost starved, gave them Corn out of the Granaries, which were furnished for Maintenance of the People of *Rome*, which yet he supplied shortly after, there happening a very fruitful season. Having sold then for one *Solidus* but ten *Modii* of Corn, and afterwards for the same price bought thirty, what gains thence had accrued he accounted for to the Treasury; but *Valentinian* suspecting he had sent less than he had gained, punished him by taking away part of his Estate. It happened ill, that one *Amantius*, an *Auruspex*, was accused to have been hired to appease the *Genius* of the Emperour, in whose House some Papers were found, which railed against *Valentinian* as covetous and cruel: He being hereupon consulted, still gave order for severe Inquisitions. And *Frontinus*, who had been assistant upon the Bench to *Hymetius*, as he who was sent betwixt them, was cruelly beaten with Rods, and banished hither into *Britain*; and *Amantius* himself was afterward put to death. *Hymetius* was conveyed to the Town called *Ocriculam*, there to be convoked before *Amplius* the *Præfect* of the City, and *Maximinus* the *Vicar*, in all appearance destined to destruction, but he appealed to the Emperour, and his Appeal was admitted, by which means he strangely escaped so imminent danger: For *Valentinian* referred the matter to the Senate, which

which after a full hearing of the Cause, confined him to *Boæ* a place in *Dalmatia*, and by so gentle a Sentence incurred the displeasure of the Emperour, who had appointed him to no less a punishment than that of Death.

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57. The City was wonderfully allarmed by so frequent acts of Cruelty, and every one making the Case his own, by Decree of the Nobility a Message was sent unto the Emperour. *Pretextatus*, who had been *Præfect* of the City; *Vinustus*, who had been *Vicar*; and *Minervius* having exercised the Power of *Consularis*, were the men; instructed in such manner, as to desire that so great Punishments might not be awarded to Offences, and that none of *Senatorial* Degree might (contrary to all Law and Custom) be subjected to Examination by Torture. When they were admitted into the Consistory, *Valentinian* denied he had given any such severe Orders, and cried out that he was abused; but *Enpraxius* the *Quæstor* gently refuted what he said, and by his seasonable liberty of Speech a stop was put to so direful Proceedings. Yet about the same time *Lollianus* a Youth, the Son of *Lampadius*, who had been *Præfect*, was convicted before *Maximinus* of having copied out a Book of Evil Arts, notwithstanding his green years, and by direction of his Father, appealed to the Prince; but being sent for to Court, was delivered into the Hands of *Phalangius* the *Consularis* of *Bætica*, and perished by those of the Hangman. Moreover, *Bassus*, who afterwards came to be *Præfect* of the City, his Brother *Camenius* with two others, all of them of the Degree of *Clarissimi*, as guilty of such a Crime, had perished in like manner, had they not been saved by the Interest of *Victorinus*, who was esteemed the most inward Friend of *Maximinus*. Neither was the other Sex exempt from these Calamities, very many of Noble Birth being put to death under pretence of Incontinency. Amongst these were most eminent *Claritas* and *Flavianus*, who being led to death was stripped stark naked, so as she had nothing to cover those Parts which Nature would conceal; of which Villany the Executioner being convicted was burnt alive. Besides these *Paphius* and *Cornelius*, both Senators, having confessed that they had tampered with Poisons; were executed, and the *Procurator* *Moneta* in like manner was put to death by his Award. *Sericus* and *Asbolius*, formerly mentioned, by all means he endeavoured to induce to accuse other persons, and for this purpose he swore he would neither destroy any by the Sword or by Fire; and therefore to keep his Oath he killed them by meer strokes of Plummets: and lying under no such Obligation to *Campensis* the *Aruspex*, he caused him to be burnt alive. Growing confident upon his Success, and strutting in the huff of his Pride, he began to despise even *Probus* himself, the chief of all the Nobility, who justly seemed to deserve that high place he now bore of *Præfectus Prætorio*. This was perceived by *Aginatius* the *Vicar* of *Rome*, who taking it very disdainfully that *Maximinus* was by *Olybrius* preferred before himself in the Examination of Causes, secretly advertised *Probus* thereof; and added, that if he so pleased the Coxcomb might easily be brought down.

58. Some said that *Probus* fearing *Maximinus*, as one now practised in Villany, and in great favour with the Emperour, sent him the Letter of *Aginatius*, at the sight whereof he was inflamed with an impatient desire of Revenge. Another thing happened, which ministered further matter for *Aginatius* his Trouble: He spake against *Victorinus*, who by this time was dead, as one that had been assistant to *Maximinus* in his unwarrantable practices, and was further so inconsiderate, as to threaten to sue and molest *Anepsea* his Widow, though he had left her a very large Legacy. She being afraid of him, for her security applied her self to *Maximinus*, and to make him her sure Friend, pretended her Husband had left her in his Will three thousand pounds of Silver. He swallowed all she thought to bait him with, and having got this Advantage challenged one half of the Inheritance, and not therewith content invented a way whereby he might devour the whole Patrimony; and this was by marrying his Son to the Daughter of *Anepsea*, though she was onely the Step-daughter of *Victorinus*. This done, and having more firmly secured his Interest, he acted still with more rigour and violence, and so extravagant were his Proceedings both against poor and rich; as what *Ammianus* tells us in particular thereof, seems almost incredible to those that read him. But when he was out of his Office, called to Court, and advanced to be *Præfectus Prætorio*, he was no whit mended by this better fortune, but did mischief (so *Ammianus* observes) as Basilisks are wont to do at a distance. At this time the Brooms wherewith the Senate House was swept were seen to blossom, which in the opinion of those that took notice of it portended, that some of vile Extract should arrive at the greatest Dignities. And indeed most of those that executed the place of the *Vicar* of *Rome* being no others than the Creatures of *Maximinus*

Sect. 2. *Maximinus*, most horribly abused their Power. But of these *Ursicinus* shewing more favour than was usual, yet left his Power of *Vicar* without the usual Approbation: For he was despised as Cowardly deferring of business, and indeed being cautious he informed the Emperour, and referred to him the Case of one *Esaias* and others, that were kept in hold for committing Adultery with *Rufina*, one that accused of Treason her Husband *Marcellus*, who had formerly been an *Agens in rebus*. After him succeeded *Simplicius Homonensis*, who had been a Professor in Grammar, and from that calling became a Counsellour to *Maximinus*, and was very fit for his turn, by a civil and obliging Carriage concealing the inward cruelty of his Nature. And first he put to death *Rufina*, with all that had either committed Adultery with her, or been privy to the Crime; after whom were punished many as well innocent as guilty. For if you will believe the Historian, in this bloody business he seemed to contend even with *Maximinus*, and endeavoured to demonstrate himself most active in destroying the Nobility; so as to the other Acts of *Busris*, *Anteus*, and *Phalaris*, there appeared nothing wanting but the Bull of *Agrigentum*.

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59. Several such Acts of Cruelty happened; but the Case of *Eumenius* and *Abienus* are mentioned as most remarkable: These two had been under *Maximinus* accused, as having had too familiarly to do with *Fausiana*, a Woman of Quality, and as long as *Victorinus* lived had secured themselves sufficiently; but when *Simplicius* came to the place, for fear they betook themselves into secret corners, especially after the Condemnation of *Fausiana*, and particularly *Abienus* hid himself with *Anepsia*. Now as unfortunate persons never want matter of Woe, it happened that one *Apandulius*, a Slave of *Anepsia* being enraged that (according to the custom of Slaves) his Wife had been scourged, went by night and acquainted *Simplicius* how matters stood; who presently sent his *Apparitors*, and forced those that concealed themselves from their Retirements. And *Abienus* was put to death, as having abused the Body of *Anepsia*, which silly Woman cried out with purpose to save her Life, that in the House of *Aginatius* she had been practised upon by Magical Arts. *Simplicius* hereof advertised the Emperour, upon whom *Maximinus* at that time waiting, and bearing *Aginatius* malice for the reason we have heretofore related, earnestly solicited *Valentinian* by a Rescript to order he should be put to death; but being aware of that Load of Infamy which would fall upon him, in case *Simplicius*, who was known to be his Friend and Counsellour, should execute the Sentence upon a person of *Patrician* Degree, he kept the Precept by him for some time, considering whom he should trust with so great a piece of Service. At length (as evil Instruments are never wanting to wicked purposes) one *Doryphorianus* a *Gall*, a Fellow impudent even to madness it self, he found out and procured him the Place and Authority of *Vicar*, to whom he gave the Rescript of the Emperour, and therewith Instructions how he might best put it in execution; which was by using all expedition, for if the least delay happened, he affirmed the man would most certainly escape. He making all haste to *Rome* imaginable, when all persons came to pay him their Visits, little minded them, being solely intent upon the way and means how to compass the death of *Aginatius*. Having notice that he was at his House in the Countrey, he caused him there to be apprehended, and together with him *Anepsia*, to be brought before him by night, as to hear the Cause; but upon his entry he was laid in Chains, and his Slaves, who had been for this purpose starved in prison, were brought forth to accuse him, and by Stripes even torn in pieces, to constrain them to do it, contrary to what the Laws indulged in this case of Incontinency. Saying what he would have them, in such Agonies, as seemed to usher in no less than very Death, upon these words was *Aginatius* condemned, and without being heard sentenced and executed, though he appealed to the Emperours; and at the same time *Anepsia* received the like Award. And so prospered for a time the Villainous Projects of *Maximinus* and his Complices; but Vengeance though often slow, yet commonly overtakes such merciless persons: For *Maximinus* afterward under *Gratian* bearing himself with answerable Insolence, had his Throat cut by the Hand of Justice. *Simplicius* had the like end in *Illyricum*, and *Doryphorianus* being condemned and cast into prison, the Emperour sent back into his own Countrey in *Gall*, and there commanded him to be tortured to death.

The ill Ends
afterwards of
Maximinus
and his Com-
plices.

60. This *Maximinus* by several Laws, as well as some Historians, is called by the Name of *Maximus*; and from the Laws this Story of *Ammianus*, relating to his Cruelties, receives Confirmation; as it on the other side affords light to some thing enacted by *Valentinian*, of which otherwise so fit an Interpretation could not be given. *Ammianus* tells us of Rescripts made by the Emperour upon the malicious Re-

Vide Prosopograph. Cod. Th.

Sect. 3.

A Cunning
Law made by
Valentinian,
whereby he
seems to have
further streng-
thened the
Hands of Ma-
ximinus.

ports of *Maximinus*; and how the first occasion was given to these cruel Acts by the bringing of certain Persons into question by *Chilo* and his Wife before *Olybrius*. And to *Olybrius* there is still extant an Edict directed under the Title of *Præfect* of the City, whereby may be too easily evinced the facile humour of *Valentinian*, in reference to those severe Courses. All Persons of what Quality soever, were subjected to Tortures, and so great a sence the Nobility had of this practice, that they sent to the Emperour their Messengers with a Petition to put a stop to it. "He writes to *Olybrius* that None should be subject to Torture, whom either former Service in the War, or their Birth, or Dignity protected, without his Consent first obtained; except in Case of Treason, wherein all Persons he saith are of equal Condition. But if any was Convicted to have Forged the Emperours Hand there needed no Consultation of the Prince in that Case, except the person were one of the *Palatines* or a Courtier. Here he declares particularly exempt from Torture the *Veterani* or old Souldiers, the *Curiales*, and Persons of *Senatorial* Rank, besides others at present Dignified by their Employments, or the Prince his favour. But he excepts the highest Criminals or those that were Guilty of High Treason, who indeed by all Law formerly in Force, forfeited all Privileges granted to other Offenders, as also did they who were found guilty of Magical Arts, in the Emperours Palace, a Crime which these times equalled with High Treason it self; in like manner as in this Law, *Valentinian* conjoins the Counterfeiting of his Hand. And to speak indifferently, by an Edict penned with so many exceptions, this Emperour seems to have so gratified the Nobility upon their Petition, as yet to have left open a door for the indulging of his cruelty upon all occasions. If any one was accused to have Counterfeited his Hand; against him *Maximinus* or any other might proceed without any molestation, and if any persons privileged by former Service, Birth or Dignity were accused, he reserved to himself power of Subjecting them to Torture, upon Consultation; besides that vast latitude given to Accusations of Treason, which he or his Ministers might easily Forge. This our veracity obliges us to observe both concerning the humour of this Emperour, and the Privileges granted by former Laws to several sorts of persons, against Examination by Torture, of which more hereafter.

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l. 1. de ne-
gationibus
cod. Th. lib.
9. Tit. 35.
L. nunc omni-
no 4. col. Just.
ad leg. Jul.
Majest. hinc
desumpta est;
posteriori tan-
sententia omni-
sa, sed & pri-
vi inmutata.

Valentinian
indeavouring
to raise a Fort
in the Country
of the *Alli-
man*, loseth
his men.

The *Maratocupreni*
strange Rob-
bers.

Utterly root-
ed out.

Theodosius
from London,
sees matters
here in

61. But *Valentinian*, at the same time, driving on high Designs against the Enemies of the Empire, thought fit, for prevention of the Excursions of Barbarians, to Fortifie the *Rhine*, from *Rhatia* as far as the Ocean, with great Ramparts, Forts, and Castles, where he saw convenient, all along the Coast of *Gall*, and by vast labour and Charge, (his Men wading up to the Neck while about their work) brought one of them to perfection upon the River *Nicer*. But indeavouring to raise a Fortification in the Enemies Country, when he would not be diverted from his purpose by the Fathers of the Hostages which had been given up into his Hands, his Men were all Cut off, not one returning with the News of the Defeat, besides *Syagrius*, then a Notary, but afterwards *Præfect* and *Consul*, whom in a Rage he Cashiered and Confined to his own House, for that alone he had escaped. In the mean time great Robberies and Murders were committed in *Gall*, by which, amongst others perished *Constantianus* the *Tribunus Stabuli*, an Ally of the Emperour, Brother to *Cerealis*, and *Justina*. But the Audaciousness and Industry of the *Maratocupreni*, Inhabitants of a Town in *Syria* of such a Name, near to *Apartia*, is most remarkable, who in the Habits of Merchants or *Honorati*, invaded and rifled whole Towns and Villages. None could be provided for their coming, so uncertain was their time and way; for as inconstant herein they were as the wind, in reference to which sudden and unexpected Onsets, *Ammianus* tells us that the *Saxons*, of all Enemies were in those days most dreaded. In like manner, as when a Condemned Criminal was to be put to death, the *Rationalis* of the Treasury with his *Apparitors* came to the House with their *Præco* before them, sounding a dismal Note, and having Executed the party, seized on what was found in the House; so these Robbers by Companies having found out their prey, imitated the Course of Justice. But having in this manner enriched themselves, by the Emperours Forces, they were utterly destroyed, not one being left alive; and together with them all their Children, lest having once attained ripeness of Age, they might drive the trade of their Fathers.

62. About the same time *Theodosius* here in *Britain* marched from *Augusta*, which the Antients (our Author tells you) called *Lundonium*; and with a stout Army he had carefully provided, repaired much the weak and tottering Estate of the Provincials. Discharging as well all the Offices of an active and hardy Souldier, as

of

Sect. 2.

of a sagacious and vigilant Captain, he defeated several People, whom Pride and Insolence had thrust forward to their own ruine, and laid the Foundations of quiet and security for a long time, restoring both the Cities and Garrisons, though in never so great disorder, to as good a condition as ever they had been in. But while he performed this signal Service to the State, and secured the Countrey, he himself was in very great danger: For one *Valentine* of *Valeria*, (part of *Pannonia*) an insolent Fellow, Brother to the Wife of *Maximianus* the Horselach lately mentioned, being for a great Offence banished into this Island, impatient of rest plotted how to destroy him, as the onely person that was in a condition to withstand other mischievous Designs he had in his Head. As opportunity presented it self, by great Promises he allured both banished persons and Souldiers, and prepared them for an Attempt; but ere the Design was put in execution, it was discovered to the General, who thereupon committed *Valentine*, with some few of his most intimate Complices, to *Dulcitius* a *Dux* in these parts, with Orders to put them to death. But having reason to be cautious, as he was a man in Military Skill surpassing all others of his time, he would not permit any further Inquisition to be made into the Conspiracy, lest by terrour struck into so many guilty persons, the tempestuous Troubles of the Provinces at present well appeased, should again revive. He turned himself from this business, to the settling of matters as yet out of order, and chiefly to the fortifying of the Borders; and having recovered a Province which the Enemies had overrun, and restored it to its former condition, upon his motion it had a Governour of its own appointed, and by the Prince his command received the Name of *Valentia*. These Enemies must be the same with those *Ammianus* formerly mentioned, viz. the *Picts* and *Scots*, whom *Claudian* the Poet, in his Panegyrick to *Honorius*, the Grandson of this *Theodosius*, mentions also as beaten, and restrained by him. The *Areans*, a sort of men instituted by the Ancients, being by little and little degenerated, he removed from their Stations, it being apparent that (induced thereto by great Rewards) they had discovered several times to the Barbarians what was done or debated by the *Roman* Officers, quite contrary to the design of their Institution: For their charge was to run to and fro, and having made Discovery of what the Enemy was about, thereof to advertise the Commanders. After he had with much commendation performed this Service, he was sent for to Court, and (if the Historian flatter not his Son) left his Charge with no less Honour, than formerly had waited on the Industry and Fortunes of *Furius Camillus*, or *Papirius Cursor*. Indeed *Symmachus* tells his Grandson, that for these Achievements both in *Britain* and *Africk* he had Statues erected to his Memory; but this may be conceived done after the Advancement of his Family. *Cambden* also brings in *Pacatus Drepanus*, telling amongst other things how the *Scot* was driven by him into his Fens and Bogs, and the *Saxon* consumed by Battels at Sea.

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ille leues Mauros, nec falso nomine Pictos Edomuit, Vio-
lenter, rago mucrone fictus. De tertio Honorii Consulatu.

Lib. 10. cap. 2.

the third consulship of Valentinian and Valens.

63. The Year following being the CCCLXX of our Lord, had for Consuls the two Emperours *Valentinian* and *Valens* the third time, *Olybrius* still continuing *Prefect* of the City, to whom succeeded *Ampelius* ere the Year was out. *Olybrius* his Government was too milde and gentle, especially considering the great Luxury and Effeminateness both of Senators and the ordinary sort, which *Ammianus* describes in many words. His onely study was how to be Complaisant; he was a bitter Enemy to Calumniators, (yet employed *Maximianus*) and to the Rapacity of the Treasury, and very upright of himself in all matters of Judicature; but in his declining years he was given also to Luxury, pleasing himself with Stage-Plays, and addicted to Women, though in no forbidden way; and his Successour was much of his humour, for though now and then he made shew of Severity, and to reform some particulars relating to Taverns and Victualling Houses; yet again he grew remiss, and so did the more harm by his Inconstancy. As seldom ever did Ruine and Desolation fall upon any State or Nation, but Vice and Debauchery ushered them in: So this very Year the *Saxons* from the Sea in great multitudes fell upon the Borders of the Empire, where they raged with Fire and Sword, and committed grievous Outrages. Against them *Naumenus* a *Comes*, a good Souldier, who commanded in those Parts, made head, but finding himself too weak to sustain the shock, therewith acquainted the Emperour, who sent *Severus* a *Magister Militum* to his assistance; and he having the Command of a good Army, so distressed and terrified the Enemy before they came to fight, that they begged peace, which after much debate being found convenient for the Empire, as matters stood, was at length granted them; but as they were returning to their own Seats, they were all cut off by those that were sent to

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Valentiniano & Valente A.A. 3 Cos.

the Saxons with the Gauls.

After Peace granted are returned fully

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way-lay them, most perfidiously doubtless; although *Ammianus* not able to excuse the Crime in the whole, would do it in part by terming them no better than a Company of Thieves and Robbers.

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The Burgundians abused by Valentinian.

64. This Treachery thus well succeeding, *Valentinian*, who all this Year lay at *Triers*, seriously considered how he might best curb the Insolence of the *Allemans*; and *Macrianus* their King, who ever and anon affronted him by their Inrodes, and notwithstanding they were frequently defeated, and returned with great loss, yet were as numerous as if they had not been touched for many Ages together. At length he resolved to make use of the *Burgundians* against them, a warlike Nation, very populous and terrible to all their Neighbours. He held private Intelligence with their Kings, and by Letters promised to pass the *Rhine* with his own Forces, and assist them in that work they thought was too much for themselves alone. They willingly accepted of his Alliance, both because they imagined they were descended of old time from the *Romans*, and because they had bitter Contests with the *Allemans*, about Salt Pits and the Limits of their Countrey. And they were ready at the appointed time; but the Emperour being employed in building Forts, failed of his word, and they sent to him that he would come and fetch them off; but as to this, Delays were also made, whereat enraged as finding themselves abused, in great wrath they put to the Sword all the Prisoners they had taken, and returned into their own Countrey. A King amongst these *Burgundians* was by a general Name called *Hendinos*, and was wont to be deposed, if under him they had had ill success in War, or the Earth had not brought forth Fruits in a plentiful manner: Like as the *Aegyptians* of old ascribed such Accidents to their Governours. Their Chief Priest they called *Sitistius*, being for Life, and obnoxious to no such severe Laws as their Kings were. *Theodosius* then *Magister Equitum* made war upon such of the *Allemans*, as for fear of that Nation were dispersed through *Rhetia*, of whom so many as he took, he sent by the Emperours Order into *Italy*, where receiving a fertile Countrey about the *Po*, they continued Tributaries to the Empire.

The Province of Tripolis in a sad condition.

65. About this time miserable was the Condition of the Province of *Tripolis* in *Africk*, partly by reason of the IncurSIONS of Enemies, and chiefly through the Deceit and Villany of pretended Friends. The next neighbouring Nation to them were the *Asturiani*, a sort of Barbarians exceedingly addicted to Rapine, who made frequent Inrodes; but being perswaded or compelled to be quiet for some time, more vigorously than ever renewed their Hostilities upon this occasion. There was one of their Countrymen, *Stachao* by Name, who coming within the *Roman* Pale plaid there several pranks, and ventured so far as to tamper about betraying of the Province, for which he was apprehended, convicted, and burnt alive. Hereat they exclaimed as a most cruel and perfidious Act, and like to wilde Beasts all ran out of their Dens to revenge the death of their Friend and Kinsman; which thing happened when the Emperour *Jovian* was still living. They were not so bold as to attack *Leptis*, a City strong both in its Walls and number of Inhabitants; but for three days continued in that fruitful Countrey about it, where they killed all they met with, burnt what stuff they could not carry away and took prisoner *Silva*, one of the *Primates* of the Town, who by chance was then with his Family in the Countrey. Those of *Leptis* concerned (as they had reason) at such an Accident, desired Protection of *Romanus*, who then was newly promoted to be Comes of *Africk*; but he refused utterly to stir, except they would make very large Provision for him, and besides furnish him with four thousand Camels for his Expedition. The poor people were amazed at his demand, and declared, that after so much loss sustained by the Barbarians, they were in no condition to make such Preparations, which he having heard, after forty days shuffling and dissimulation rose up and went his way. All their hopes as to assistance from him being gone, and the time of the General Council of the Province, which with them was Annual, being now at hand, they made choice of *Severus* and *Flaccianus* for their Messengers, who with certain Golden Images of Victory, which they sent to *Valentinian*, as Congratulatory upon his Assumption of the Government, as we have said the Custom was, should also present him with an account of their distressed Condition. *Romanus* the Comes, the Council being publick, could not but have notice of the Message designed, and he sent away in Post to *Remigius*, the *Magister Officiorum*, his Cousin (by Craft as well as Kindred) to desire that he would persuade the Emperour to refer the business to the *Vicar* of *Africk* and himself. The Messengers presented their Petition, and offered to prove the Contents thereof, which *Remigius* in behalf of his Friend denied. And the Emperour not knowing which Party to believe, the whole matter

Romanus the Comes of *Africk* refuses to relieve the People invaded by the Barbarians.

And by his Interest in *Remigius* at Court their Petition comes to nothing.

was

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66. But, while the distressed People of *Tripolis* expected Relief from Court, the Barbarians encouraged by the same Motives as put them out of heart, came down again, and made miserable waste in all the Tract belonging to *Leptis*, and *Oea*, a City placed betwixt it and *Sabrata*, from which three the Province of *Tripolis* had its Name. They killed several *Decuriones*, and amongst others *Rusticianus*, who had born the Dignity of Priesthood, and *Nicasius* an eminent *Aedilis*; and no way could there be found of Resistance, because the Charge of the *Militia*, which at the prayers of the Messengers had been committed to *Ruricius* the President, was lately transferred to *Romanus*. The noise of this Devastation flew as far as the Emperour into *Gall*, and so startled him, that he sent away *Palladius* a Tribune and Notary, both to pay the Army of *Africk* their Arrears, and to bring him a true Information concerning the state of *Tripolis*. But still the *Austuriani*, as ravenous Creatures which had got a taste of Blood, encouraged by all these Delays, renewed their IncurSIONS, and killing those that could not by flight avoid them, plundered and burnt as formerly; and neither would leave standing any Vines nor other Trees. *Mychon*, a Citizen of principal note, was caught near the Town, and made his Escape before he was bound; but to hide himself he fell down into a Pit, and breaking one of his Ribs was taken up again by the Barbarians, and led to the Gates, where he was ransomed by his Wife, and being drawn up by a Cord to the top of the Wall, died of his Bruise after two days. Grown still more and more insolent upon the liberty they had got to do what they listed, they attacked *Leptis*, and for eight days together continued their Siege; but having some of their number wounded, without any effect they went away something discouraged. The Townsmen at their wits end, and not hearing what was become of their former Messengers, sent now other two, *Jovinus* and *Pancratius*, to inform the Emperour of what they had both seen and suffered, who coming to *Carthage*, and there finding *Severus* and *Flaccianus*, understood from them that their business was referred to the *Vicar* and the *Comes*: And *Severus* died presently after, but the other hastened to the Court with as great Journeys as possibly they could make.

Barbarians attempt to, but in vain.

Illanous Practices betwixt Romanus and Palladius.

67. But *Romanus* having heard of the coming of *Palladius* the Tribune and Notary, whom (as we said) the Emperour sent with the Souldiers Pay, and to give him Intelligence how matters stood in *Africk*, to secure himself dealt privately with the Principals of the Army, that the greatest share of what he brought should be given to him, which he readily enough accepted, and went on his way to *Leptis*. There he received the miserable Complaints of the Inhabitants, and by *Erechthius* and *Aristomenes* (the chief of the Town) was conducted to see the lamentable Desolations of the Countrey, which having beheld he reviled *Romanus*, and threatned fully to inform the Emperour how matters had gone, who thereupon in great fear and wrath affirmed, that he also would turn Informer, and certify the Prince how he being sent as a Notary of approved Fidelity, had converted the greatest share of the Souldiers Donative to his own private use; wherewith the Notary being frightened, agreed with *Romanus* to conceal all from *Valentinian*, whom at his Return he falsely informed, that they had complained without just cause. Hereupon was he sent back with *Jovinus*, the onely Messenger left of the two, for *Pancratius* was dead at *Triers*, that together with the *Vicar* he might hear the Case of the *Tripolitans*; and *Valentinian* ordered, that *Erechthius* and *Aristomenes* should have their Tongues cut out of their Heads, for having used too free Discourse, as *Palladius* had informed. The Notary came back to *Tripolis* in order to the Affair with the *Vicar*, which *Romanus* understanding, sent his own Domestick, and *Cecilius* his Counsellour born in the Province, who so wrought upon the Townsmen either by cheating Language or Bribes, (it's uncertain whether) that they utterly denied they had given order to *Jovinus* to say any such thing as he had done to the Emperour; by which the man affrighted, to save his Life as he thought, yielded and said he had lied to him. *Valentinian* hearing thus much from *Palladius* at his Return, and being naturally inclined to Severity, commanded *Jovinus* as principal Contriver, and three others as Accessaries to Falshood, as also *Ruricius* the President as a Lyar, to be put to death. *Ruricius*, who in his Relation was accused also to have used some biting Expressions, was executed at *Sitisis*, and the other at *Utica*, by Sentence of *Crescens* the *Vicar*. *Flaccianus* having hardly escaped the Fury of the Souldiers, when he was heard by the *Vicar* and *Comes*, who cried out that the *Tripolitans* might thank themselves for not being at first relieved, was thrown into prison, and made his Escape to *Rome*, where he died.

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68. So continued miserable *Tripolis* under its cruel Oppressions, both from Foreign and Domestick Enemies; though Justice it self, which seemed to bewail its Condition, kept its Eternal Eye (as our Author words it) still waking, and the Bloud of the Messengers and the President continued their cries for Revenge, which long after came to pass, according to the usual Saying, that *Murder will out at last*: For when *Palladius* was dismissed from his Attendance, and destitute of his former Supports of Pride and Confidence, was retired to a Private Life, and *Theodosius* was come into *Africk* to suppress *Firmus*, who was there attempting to set up for Sovereign; as he was taking a view of *Romanus* his Moveables, which he was ordered to do, he found a Letter amongst his Papers of one *Meterius* with this Inscription, *To his Lord and Patron Romanus*; and after several other matters nothing to the purpose these words were added, *Palladius the forlorn salutes you, who saith he is dismissed for no other cause, than for having lied to the Emperour in the cause of the Tripolitans*. The Letter was sent to Court, and *Meterius* with all speed apprehended, who confessed he wrote it, and thereupon *Palladius* was also sent for, who considering of how great a Villany he was guilty, escaped his Keepers by night, as they were celebrating a Christian Vigil, and hanged himself. Encouraged at the Report hereof *Erethius* and *Aristomenes*, who for fear of having their Tongues cut out had escaped and hid themselves, came forth, and gave an account of the whole matter to *Gratian*, who (*Valentinian* being now dead) referred them to *Hesperius* the *Proconsul*, (the Son of *Ansonius* his School-master) and *Flavianus* the Vicar, who afterward sided with *Eugenius* the Usurper. They heard the matter with all indifference, and subjecting *Cacilius* to Torture, he confessed how by his Arts the Citizens were persuaded to belie their Messengers; and *Remigius* afterward died by the Halter, as may be shewn in its proper place. This story so eminent for the Variety, acquaints us with the corrupt Inclinations of the great ones of those days; and how careful Princes, who see by other mens Eyes, and hear by their Ears, ought to be, especially in matters relating nearly to the Safety of their People, and to Bloud: So miserably was *Valentinian* gulled through the Treachery of those about him, that by the Tricks of *Romanus*, and the false Suggestions of his *Magister Officiorum*, this very year he seems to have made an ill-grounded Law upon this very occasion: For, there is extant an Edict directed to *Claudius* the *Proconsul* of *Africk*, on the second of *February*, in the Consulship of *Valentinianus nobilissimus puer* and of *Victor*, whereby it is ordained, That if any Messengers come to Court with improbable or superfluous Requests, that at their own charge they be sent back with their own Horses or Carriage-Beasts. For, as we have before observed, the Messengers of the Province were allowed the use of the *Cursus publicus*, and Princes ever pretended to have their Ears open, by free Access to their Complaints. To prevent all idle Addresses, *Valentinian* by other Laws had formerly taken care, as having the Decrees they brought with them first entered amongst the Records of the ordinary Judges of Provinces then, examined, and reported to the Prince by the *Præfectus Prætorio*. But this further Severity with all probability proceeded from the Arts of the Persons lately mentioned, and their possessing of him with Prejudice against the Messengers sent from the *Tripolitans*, the Edict being directed to the *Proconsul* of that Province.

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370.L. 5. de Legat.
or Decretis,
C. c. Cod. Tit.
12. tit. 12.

69. But while they of *Tripolis* would gladly have tilled their Lands and could not, or reaped the Fruits of their own Labours, there were some in *Gall* who might have done both the one and the other, and would not, as appears by an Edict directed to *Jovinus*, who was now *Magister Militum* in that Countrey: By this he encourages the *Veterani*, or old Souldiers dismissed, to till and improve the Lands of such as were absent and neglected them, assuring them they should enjoy the Profits of their Labours, or the Fruits of their own Improvement, without any Rent or Allowance made to the Owners, from whom the Law doth not take away the Inheritance or Dominion of the Grounds themselves. Two days after the Date of this Law he directed another to *Olybrius* the *Præfect* of the City, for Explanation of an Edict made by *Constantine* the Great, (to whom he gives the Title of his Divine Parent) in favour of the Daughters of such as had been nominated to the *Prætorship*, and died before the setting forth of their Games, that they should be excused from any Charge, if so be they had no Brothers. Indeed if such a Candidate for the *Prætorship* left any Sons, there was no doubt but receiving their Fathers Inheritance therewith, they were obnoxious to this Charge of the Games; although generally the Law favoured the Children of such as being onely named to a Place, died

L. 11. de Veterani,
Cod. Tit.
6. tit. 20.L. 17. de Prætoribus,
Cod. Tit.
1. 6. tit. 4.

Valentinian explains a Law of Constantine the Great, which he made in favour of Women.

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st.2. died before they came to Execute the Office; but here remained a question, whether in case both Sons and Daughters were left Heirs together, the burthen should descend upon the Daughters too, according to their share in the Inheritance; which *Valentinian*, by this Constitution, determines against the Women, contrary to the general Rule of Law, that those who should not have the Advantage or Honour of a thing, should not be Subject to the Burthen or Inconvenience, for Sons might execute and enjoy the Honour and Dignity of the *Prætorship*, but Daughters could not. But such was the Burthen of this Office, that he thought fit thus to order it, and Ordain the same to be practised in other Services of this Nature. But to the same *Olybrius*, at this very time, he directed other Edicts of greater Consequence, for the Incouragement and Advancement of Learning, and the Liberal Professions in that City. We mentioned a Law made by him two years before, Inscribed to *Prætextatus* the Predecessor of *Olybrius* for Regulating and Incouraging the *Archiatr*, or Ordinary Physicians of *Rome*. This now by another he Confirms, both as to the Maintenance, number, and Election of them; but requires greater Caution in the supply of every Vacancy, in three respects. For, whereas by the former he required the Election to be made by all the Number; by this he will have it perfected by the Consent or Votes of the Major part, as is more agreeable to Law, and the Custom of all Corporations, or Societies. And whereas in that to *Prætextatus* he had said only in general, that another was to be Chosen into the Place of the deceased, thence a Question arose, whether if a Senior died, his Successor should not Succeed in his Seniority; which now he Determines in the Negative, ordering him that came in last to take the last or inferiour place, the Course generally used; although a Question happened some years after concerning one *John*, who being a *Palatine*, or the Emperours Physician, challenged the place next to the Chief or President, and some were of Opinion, that he ought to have such Seniority as he might have had, had he been Elected at such time as he was entertained in the Prince his Service; but it was determined against him. In the last place is observable that this Law doth not require, as did the former, that the Prince should be consulted upon the supply of a vacant place.

Laws
akes for
ravage-
of Lear-
Men.

Physicians.

L. de Medicis
& Professori-
bus. C. l. f. &
L. Si quis in
Archiatr. Cod.
J. l. i. l. v. c. o.
Cod. tit.

regulates
manners
the Stu-
dents of the
Liberal Arts.

70. This Law seems but a part of one large Constitution made now as we said, for the Incouragement of Learned men, whereof another relates to the Liberal Studies of *Rome* in general, and a third to *Advocates*. That concerning Liberal Studies is still extant in the *Code* of *Theodosius*, thought not transcribed into that of *Justinian*, because Relating to those times, and contains several Academical Statutes, for Regulating the manners and Conversation of such as Studied at *Rome*, and the time allotted to them. For in this Age whereof we write, *Rome* was a Famous University, abounding with most excellent Professors, to hear whom the Youth flocked from all Parts, especially out of *Africk*, although that Countrey had been formerly the Nurse of Lawyers, and there, particularly at *Carthage*, were Schools wherein the Liberal Arts were Professed. But to *Rome* they came chiefly for obtaining the knowledge of the Law, and of Eloquence; which were taught here for a long time after, even in the dayes of the *Gothick* Kings. But great was also the Corruption of Manners in this City, as *Ammianus Marcellinus* largely complains, in this very Age; scandalous was it grown by constant Revellings, and Drunkenness, Gaming, Whoring, and perpetual running to the Theatres. Therefore it highly concerned *Valentinian*, for the Publick good, to provide as much as might be, that the Youth that came thither to Study, might not be corrupted in so flexible an Age, and a place of so ill Example; and this he did by several Orders or Rules, than which for accomplishing such an End, nothing can be more exact. The first is that when they came, they should bring with them Letters Dimissory and Testimonial from the Judges or Governours of the Provinces where they lived; wherein should be exprest what was their Country, where they were born, and the Quality of their Parents. In the next place, when they arrived they should produce these Letters before the *Magister Censuræ*, whose duty it was, as also of his Officers or *Censuales*, amongst other things to see good order kept; and especially that Strangers demeaned themselves soberly and as became them. Then were they (doubtless before this *Magister*) to declare what they would Study, or make Profession of; whether of *Greek* or *Roman* Eloquence, Law, Philosophy, or the like; and so underwent a kind of Matriculation at present practised in Modern Universities. But besides this, the *Censuales* were to know where they lodged, that it might not be in any suspicious Place, or where they might be diverted from their Studies. And they were further to take care that they kept no bad company, nor were present at any unlawful or dangerous Meetings.

L. de Studijs
liberalibus. C. l. f.
bis. Romæ C. l. f.
Th. l. i. l. v. c. o.

Sect. 2.

71. It was one of the Crimes of this Age and City, that the Theatres were too much haunted, and as *Ammianus* tells us, *Olybrius* the *Præfekt* himself, to whom this Law is directed, was guilty of the same fault; therefore as it was a blemish to all that Studied, or were employed in grave or serious Matters, as Ecclesiasticks, Judges, and Souldiers, to frequent the *Spektacula*; so as pernicious to Learning, he forbids it here to his Scholars; and moreover all unseasonable Feastings, which either by their length, or the time wherein they were used, would hinder them from their Studies, and create in them ill Habits. If these Rules and Cautions would not prevail, in such a Case the Student that demeaned himself unworthily, was publickly to be beaten, or whipped, expelled the City, and being put on Ship-board, carried back into *Africk*, if that was his Country; which though severe, yet was esteemed no more than requisite, to restrain the Corrupt Humour of the Times. After this he prescribes the time they were there to Study, which he Limits to the twentieth year of their Age; for this was the usual period of Studies: a Boy from the twelfth year to the fourteenth, being supposed to Study Grammar and Geometry, and afterwards in the University, Rhetorick, Philosophy, Mathematicks, and the Law; for they Learnt in those dayes the two Languages with ease in their Infancy, which we now toil at a long time; and yet *Dioclesian* formerly permitted the Youth of *Arabia*, to Study in the University of *Berytus*, till the twenty fifth year of their Age, a longer space he would not permit them to avoid the Employments of their Countries. In the tenth place, he orders the *Præfekt* of the City, to admonish the *Censuales*, to whom the Charge of these Scholars did belong, every Month to exhibit a Catalogue, and Account of them, as what they were, and whence they came, and who were to be sent back into *Africk*, or other Provinces, their term being already expired; except they were such as belonged to any Body's Company, or Society in *Rome*, which enjoyed this amongst many other Privileges, that their Students could not be forced to quit the place. The last Rule is, that the Catalogues, or Accounts of what Students were in *Rome*, and what were ready to depart, should every year be sent up to the Prince himself, that He finding out the Merits and Qualifications of each, might make use of them for Publick Service, as he saw convenient. So did a Lady that Reigned here in *England*, in the last Century, require every three years an Account from the Chancelors of the two Universities, of what eminent Scholars there were in every Profession, whom as she had occasion she noted down, and marked for Employment, to send them abroad, or prefer them at home, as their Inclinations and her Service required. This is the second Branch of the large Constitution whereof we spake. The last commands Judges, that in hearing of Causes they assign Council to the Parties as indifferently as may be, that so neither the most knowing, nor most ignorant, may be all on one side. If any Advocate should deny his Assistance to any party, after the Judge his Assignment, he should lose his place without any Hope of Restitution; and if any of the Parties had procured a Combination of Advocates against his Adversary; so as to deprive him of equal Defence, he should be esteemed as one who by indirect Courses went about to Bolster up an unjust and tottering Cause.

Gives order
about Assignment of Advocates.

Miners Com-
manded to re-
turn into
Thrace.

72. About this time *Valens* in the East found his Revenue impaired, by the neglect of those that wrought in his Mines of *Thrace*, who, it seems, not enduring the burthen imposed upon them, ran away from their work. He had sent Orders through his own District, that wherever they should be found, the owners of the Grounds in which they now employed themselves, should send them back; and whereas many of them had betaken themselves into the Neighbouring Countries of *Illyricum* and *Macedonia*, he had prayed Assistance of his Brother, to drive them thence. This *Valentinian* endeavoured by an Edict directed on the nineteenth of *March* to *Probus Præfektus Prætorio*, Remarkable for other hints it affords, besides the main business intended by it. Therein he gives the Title of *Dominus noster* to *Valens*, though his younger Brother, and one Advanced by himself. From this Law it is evident, that *Illyricum* and the *Diocesis* of *Macedonia*, in the Division of the Empire, belonged to him. And hereby we see that *Illyricum* and *Macedonia* were at this time under the Disposition of *Probus*, as also *Italy* and *Africk*, as appears by other Laws. We may also observe that, at this time *Macedonia* was distinct from *Illyricum*, as in the Breviary of *Festus Rufus*, which (the year preceding this) he dedicated to the Emperour *Valens*, though in its general Name *Illyricum* also included *Macedonia*; and *Macedonia* and *Dacia*, (these two *Dioceses*) afterwards constituted the *Præfecthip* of the Eastern *Illyricum*, at what time *Illyricum* was divided, and the

We-

L. 7. de po-
lands. Cod.
Just. lib. 2
6.

L. 7. de A-
lis Cod. Ti
10. tit. 15

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Seft. 2. Western belonged to the Western Empire, though now when this Law was made, both Western and Eastern, as far as *Thrace*, appertained to the share of *Valentinian*. Hence comes it that *Ammianus* makes mention but of three *Præfetti Prætorio*, under these two Princes, and signifies *Epirus* to have also been Subject to this *Præbus*, which certainly afterward belonged to the Eastern *Illyricum*. But *Valentinian* was willing enough to Comply with his Brother, as in other matters so especially where any Rigour or Severity could be shewed, to which he was very much inclined, as not only Historians testify, but may sufficiently appear from the Laws. He had the year before published a Constitution against such as should Usurp the Right of the *Panis Gradilis*, or the Bread belonging to the poor Citizens of *Rome*; but the Penalty he thought was not sharp enough, as depriving only the Masters of Slaves, *Officials* and *Apparitors*, of the use thereof. But now, by the Instigation, as we may easily guess, of *Maximinus* or *Maximus*, that cruel Blood-Sucker, lately mentioned, who at this time bore the Office of *Præfectus Annone*, he directed another Edict to him, which bears date on the same day, as that concerning Miners; and discovers the Disposition of both Prince and Officer. Notice was taken that the Agents and Slaves of Senators, and others intruded themselves amongst the poor, and, under the Vizard of such, by Favour or Connivance of the Scribe belonging to the *Præfect* (who was to keep an Account or Catalogue of the Persons concerned) were admitted to the Allowance; such Agents or Servants as should so do, he Commands to be put to the Rack, to know whether they did it without, or with the Consent and knowledge of their Lords. If without, he Condemns them to serve in Chains, in the Bake-House they had so defrauded. If their Lords were privy and Consenting, He Confiscates their Houses; though a very severe thing it was indeed, that Slaves should be examined by torture against their Masters. As for others who without Right or Title had shared in the Allowance, if they had Estates, both them and their Estates he Condemns to be annexed to the Body, or Company of the Bakers; and if poor, to serve in the House with manual Labour. And as for the Scribe, if it hapned through his Corruption or Favour, no less a punishment he inflicts on him than death.

73. More favourable he was to Widows, and Orphans, at this time, whom he Exempted from Impositions usually laid upon *Plebeians*, besides such as entered into Religion, of which we are to speak in another place. As great favour he extended to the Physicians, and Professors of the City of *Rome*, to whom as also to their Wives he grants Immunity from all Publick Services, and Burthens, and namely, from the finding of Souldiers; for, having as well as other Citizens Estates in the Provinces, upon occasion of the War with the *Allemans*, they might be called on to set out their Men, as also to afford quarter, as well as their Neighbours, from which Burthen he also declares them free, to the great Incouragement of Learning. Several other Laws he made also at this time, for the better Regulating of Corporations, as that no Promotions *per saltum* should be permitted of any therein, but to be nulled by the Governour of the Province, without any power left in the Court of the Corporation it self, therein to intermeddle. And, whereas those that were Merchants, and payed the usual Impost upon Wares called *Lustralis Collatio*, in case they Purchased Lands belonging to a Corporation, because of the said Impost, thought themselves freed from all Burthens lying upon the Possessors of such Lands, he declares on the contrary, that by reason of the said Lands, they shall be obnoxious to all the Duties relating to the Corporation. Nay further, it appearing upon Complaint, that several Persons in *Africk*, with Design to evade the said Duties, had aspired after the *Senatorian* Dignity, he Commands that they be forced back to them, except they had been made Governours of Provinces (which yet afterwards he would not allow them to be, except they had passed through all the Employments of the *Curia*) or except they had served in the Palace; for such having discharged all Duties there, might be of the *Senatorian* Rank, and were freed from these Burthens; or Lastly, except such an one had passed the Services of the Field, or after finishing his Military Course, arrived at that Quality. Now there were so many of the *Gentiles*, as this Age called them, or such as were descended of the Barbarous Nations, which were no Members of the Empire, spread abroad both in the Armies, and elsewhere, that they gave cause of Jealousie, lest they should Attempt something against the Publick Safety; to prevent which, by a very severe Law, he forbids Marriage with them, to all Persons of what Condition soever; and that under no less a Penalty, than death it self. Hereby he may seem to have been sensible

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L. 6. de Anno-
nis Civibus.
Cod. Th.A Severe Law
against such as
intruded a-
mongst the
Poor, and got
their Bread.Valentinian is
Indulgent to
Widows and
Orphans.As also to
Physicians
and Professors.L. 6. de Censu.
Cod. Th. lib. 13.
tit. 10.L. 10. de Medi-
cis Professori.
Cod. Th. lib. 13.
tit. 3.L. L. 71, 72, 73.
de Decurioni-
bus.L. Unica de
Nuptiis Genti-
lium Cod. Th.
lib. 3. tit. 14.He Prohibits
Marriage with
Gentiles.

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fible of those Mischiefs that followed upon Preferment of those men, who not only being commanded, but commanding Armies, they had great opportunity to involve the Empire in Troubles, which they vigorously improved. For, this Law of *Valentinian* was afterward so far nulled, that by Rescript of the Prince Licence was indulged to make such Marriages; and *Ammianus* complains, that in his time the Commanders of those *Gentiles* (of which there were Numbers or Regiments in the Army) were not *Romans*, but of the same original with their Souldiers. They conquered the Provinces by degrees, and in *Justinians* time had so far embodied themselves with the People, that this Law, to which the temper of the times would by no means submit, was (as antiquated) by *Tribonian* omitted to be put into his Code. It was directed to *Theodosius* with the Character of *Magister Equitum*, wherein he had succeeded *Jovinus* at his Return out of *Britain*.

A Truce made
with the Persi-
ans.

Valens will
not have the
Officers be-
longing to
vernours of
Provinces ap-
peal from
them in Cri-
minal Causes.

Gives Rules
about *Tironis*
or young
Souldiers.

74. But we may return for some time into the East, when the Winter of this year was over, *Sapor* King of *Persia* having sufficiently provided himself, sent an Army which brake into the *Roman* Territories. Against it was opposed *Trajan* a Count and *Vadomarius*, who had been a King of the *Allemands*, with a considerable Force, but with Orders rather to make a Defensive than an Offensive War. They governed themselves according to their Instructions, declining an Engagement as much as possible, that they might not be reputed Breakers of the Peace, but by necessity were forced to make use of their Arms, and thereby obtained the Victory. Yet was it not so great but the Enemy still kept the Field, and several Skirmishes afterward happened with various success, wherewith the Summer was spent, and then a Truce was made by consent of both Parties. Though these two Captains were (as we have it from *Ammianus*) employed against the *Persians*; yet *Zosimus* tells us, that *Valens* himself moved Eastward, but by slow Journeys, being employed as he went along in hearing the Messages and Complaints of the Cities, which he gratified by granting all just things they desired; that when he came to *Antioch* he ordered his matters relating to the War with good caution; that having wintered in that City, when the Spring would permit his March, he removed to *Hierapolis*, whence leading his Army against the Enemy, upon the approach of Winter he returned again to the same Quarters. Now that he marched into the Eastern parts appears sufficiently from the Dates of several Laws, which also in Winter fix him at *Constantinople*, whatever *Zosimus* writes of *Antioch*, at which City yet he might reside some time during his Expedition. From *Constantinople* he first removed to *Nicomedia*, and thence to *Cyzicus*, where he settled a matter in controversy betwixt the ordinary Judges of Provinces and their Officers, or Apparitors, viz. the *Principes*, *Cornicularii*, *Commentarienses*, *Adjuutores*, *Numerarii*, *ab Actis*, a *Libellis*, *Exceptores*, and the rest formerly mentioned. It had been a great Question whether they might appeal from their Judges whom they served, who being but Annual might impose very harsh Conditions upon them; and yet without some Awe there could be no good Government of these men, who having their Places for Life, would little regard the Menaces of that person, who they knew would be out of his Office shortly, and consequently out of capacity to punish their Misdemeanours. *Valens* therefore took a middle course, declaring that in Civil matters Appeal should lie, but not in Criminal Causes; for if they neglected their Duty, and their Magistrate whom they served had no power of Punishment, how precarious must his Employment necessarily be?

75. From *Cyzicus* he removed to *Casarea* in *Cappadocia*, thence to *Antioch*, and his next Stage was at *Hierapolis*, where he created several Laws: The first of them is that famous one, whereby he restored to the City of *Constantinople* the old Privilege called *Jus Italicum*, of which we have already spoken upon occasion of the founding of that City. Being now intent upon the War for the filling up of his Troops, he issued out an Edict to *Modestus* the *Præfectus Prætorio* of the East: Therein for encouragement to *Tirones* or new Souldiers, and they that set them forth, he declares, That as soon as they were listed in the Army, if formerly subject to the *Census* or Tax, they should thereupon be discharged *ipso facto*, and their Wives also after they had served five years; Provided they had brought them home to their own houses: For although Marriage by the *Roman* Law was accomplished by the consent and affection of the Parties; yet forasmuch as there was to be some evident sign and declaration thereof, most commonly the leading or conveying of the Woman to the Mans House was taken as concluding, and in some cases it was necessarily required; sufficient Proof being otherwise wanting, and for prevention of Fraudulent Practices, it being easie to pretend Affection and

Con-

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Ammian. l. 29.

L. 4. p. 742.

*L. 17. quorum
appellationes
non recip. Cod.
Tul. l. 1. tit. 3.*

*L. un. de Italic
Jure urbis Con-
stantinop. Cod.
Tul. l. 14. tit. 1.*

*L. 6. de Tironi-
bus, Cod. Tul.
l. 7. tit. 13.*

*Inde phrasi
Uxor em-
dure.*

2. Consent. As for the publick Benediction of Marriage in the Church by the hands of Priests, it was not as yet introduced by any publick Law. In the second place he declares what sort of men shall be presented for *Tirones*, not any Stragler or old Souldier, but one born and brought up in the Province, one subject to the *Census*, or one of those they called *Adcrefcentes* or *Supernumeraries*; for as both in the Field and in the Palace there were those that were in actual Service, and those who were near unto it, kept as Probationers from amongst whom Vacancies were supplied; so in like manner in the Provinces, some were actually inrolled in the Cesse Books, and there were others who were to succeed them upon occasion. Lastly, he prescribes the manner of filling up his Troops to be first out of the *Adcrefcentes* of the Army, and if Supply sufficient could not be had thence, out of the *Tirones*, or those newly raised or to be raised for this purpose, or else out of the *Censiti*, or such as were cessed, to whom recourse should be had in the last place, lest the publick Revenue might be lessened by freeing so many that were obnoxious to the ordinary Tax.

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76. The Truce being made betwixt the Empire and *Persia*, that King returned to *Ctesiphon*, there to winter; and the Emperour came back to *Antioch*, where being out of danger of any Forcin Enemy, he was not altogether so secure from domestick Treason. There was one *Procopius* a turbulent and restless Man, who accused *Anatolius* and *Spudastius*, two of the Emperours Servants in the Revenue, of conspiring against the Life of *Fortunatianus* the *Comes rei private*, a troublesome exacting person in his Office: He brings the matter before *Modestus* the *Præfectus Prætorio*, who had succeeded *Auxonius*, and procures one *Palladius*, an obscure Fellow, as a Sorcerer hired by them, and *Heliodorus* a Caster of Nativities, to be put to the Rack. *Palladius* to avoid the Torture cried out, That these were slight matters, and not worth the while in comparison of some other clandestine Practices, which if they proceeded would put all things into confusion; and being encouraged to make the Discovery, that one *Fidustius*, who had born the Office of President, with one *Irenæus* and *Pergamius*, had by secret and detestable Arts learnt the Name of him who was to succeed after *Valens*. *Fidustius* being controlled by the Accuser, confessed all, and how he with *Hilarinus* and *Patritius*, two excellent Artists in Divination, had consulted about that matter, and found out, that an Excellent Prince should succeed, and they themselves come to untimely ends for their Curiosity. That when they considered who was best able to discharge the Sovereign Command, *Theodorus* seemed best to deserve it, who had already obtained the second Degree amongst the *Notaries*; and indeed the Man was very remarkable, as descended of an ancient and noble Family in *Gall*, though born in *Sicily*, exceedingly well educated, and for his Modesty, Prudence, Humanity, and Learning, acceptable to all men both high and low, and seeming to deserve a much higher place than that he at present possessed. *Fidustius* almost tortured to death, declared, that what he had predicted was made known to *Theodorus* from himself, by intervention of one *Eusebius*, a person of great Learning and Quality, as having formerly governed *Asia* as *Vicar*. Hereupon was *Eusebius* committed to prison, and the Emperour being acquainted with the whole story, breathed nothing but death and horror against those that were conscious of this Practice, exasperated by the Flatteries of many about him, particularly of *Modestus*, who (to secure himself against the fears of a Successor) omitted nothing of that nature but made him believe himself a clownish and ill bred man, though he was as quaint in his Expressions as ever was *Cicero*, and that the Stars at his beck would descend into his lap. Now was *Theodorus* apprehended at *Constantinople*, whither he was gone upon some private business; and from the most remote parts many were halled away Eminent for their Nobility and Employments; the Emperour and his Ministers giving themselves rest neither day nor night from bloody Inquisitions. The publick Prisons could not contain the Multitudes they endeavoured to crowd into them, neither were private Houses enough found fit for their receipt. And now *Theodorus* being detained prisoner in a remote quarter of the Territory, the Trumpets began to sound (as *Ammianus* phraseth it) to Bloud and Slaughters.

Qui dum ibi moratur, securus interim hostium externorum, internus pene perierat fraudibus, &c. Ar. l. 29.

in per-
by Magi-
rts en-
our to
v who
succeed
as.

hereupon
breaths no-
ing but
orture and
cath.

77. But he adds, that as an Historian, who knowingly omits what had been really done, is as much to blame as he that feigns what was never done: So he must not deny, neither could it be doubted, but that the Life of *Valens* was often endangered by secret Conspiracies of some Military Men, whom he had purposed to expose to imminent perils in *Thrace*. As he took his rest once in the Park betwixt *Antioch* and *Seleucia*, he narrowly escaped being murdered by *Salust* one of the *Scutarii*.

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To which we may adde, that *Zosimus* accuseth this *Theodorus* of Ambition and Tampering about his future imaginary Preferment. Therefore *Ammianus* concludes, that he had reason to defend himself by all means to which Prudence could direct; but in this he could never be excused, that in the heat of his Pride and Anger he made no distinction betwixt the innocent and the guilty; but while there was reason to doubt of the Crime, he was fully resolved as to the Punishment; and to those miserable people word was brought, that they were condemned before they thought themselves suspected: So resolute was he in his bloody humour, which was exstimulated by his own Avarice, and of those about him, that if there were but any shew of Moderation, they branded it as Dulness, and procured the Ruine of many wealthy Families. To those Parasites he gave constant Access, but was not to be come at by others of more conscionable Principles, and was most angry in a case wherein he should have been most void of passion; and therefore what they whispered he presently concluded and took all for granted, his Pride not permitting him any sober Inquiry. Hence it came to pass under shew of Mercy that many were sent into Banishment, and their Estates being confiscated, forc'd all their Lives after to beg their bread.

78. The *Praefect* and those *Summates*, to whom, with him, the Cognizance of the Crime was committed, being convened, the Racks, the Plummets, the Cords, and Rods, were brought forth, and amongst the ratlings of Chains and Fetters, the noise of Hold him, Bind him, and Away with him, was heard, which the Serjeants echoed one to another. After a little Prelude to the Tragedy, *Pergamius*, whom (as we said) *Pulladius* accused, when the Judges knew not well in what method to proceed, in a large Discourse accused many thousands as Accessory, and required several to be sent for from the utmost bounds of the Empire. But it being impossible to prosecute according to his Allegations, he was put to death, and many in Companies after him; which done, the main part of *Theodorus* came upon the stage. On the same day it happened, that one *Salia*, who was *Comes Thesaurorum* in *Thrace* a little before, and had been cast into prison, being to be brought forth to his Examination, as he was putting on his Shooes, out of a sense of the great Tryal he was now to undergo, became stupified and fell down dead amongst those that had their Hands upon him. *Patricius* and *Hilarius*, when they were produced, differed in their Relations, and for that had their sides sufficiently lanced with Stripes: and the *Tripus* or three footed Engine they used, was produced before them, whereby brought to the utmost extremity, they confessed the whole matter. *Hilarius* first acknowledged, that in resemblance of that at *Delphi*, they framed the *Tripus* of Laurel Twigs; that by Imprecations of secret Verses, and by many and daily Dances being ritually consecrated, they moved it; the manner of which Motion, when it was to be consulted upon any secret Affair, was this: It was placed in the middle of an House, which was throughout perfumed with *Arabian* Odours, and thereon was neatly set a Charger, every way round and made of divers Metalls. In the utmost Ring or Compass thereof were engraven skilfully the four and twenty Letters, set at a distance from each other, so that certain Spaces betwixt them were precisely set out: Then one arrayed in white Linen Vestments, having on Linen Stockings, a Wreath upon his Head, and a Branch in his Hand, having by certain formal Charms obtained the favour of that Divine Power, which was the Author and Director of Divination and Foretelling, stood above the said *Tripus*, shaking a Magical Ring hanging at a Curtain; which Ring lighting by jumps and leaps, with distant pauses between, on certain Letters one after another, which seemed to stay and hold it, made Heroick Verses answerable to the Questions demanded, and fully composed according to Rythmical Numbers and Measures, like the Verses of *Pythia*, or those of the Oracle of *Branchida*. There then as they inquired who was to succeed the present Emperour, for that it was said he should be every way an Accomplished Person, the Ring as it skipped here and there, quickly made up two Syllables with another Letter, at which one present cried out, that thereby *Theodorus* was portended; neither was there any further Inquiry made into the business, for they were very well satisfied that he was the Man. When he had laid open thus the whole matter to the Judges, he added therewithall, that *Theodorus* knew nothing of it. Then were they demanded, whether by signification of the same Oracle they foreknew what Trouble they should come to; and they replied in those most known Verses, which declared destruction to those who should search into so sublime matters; and yet withall that the Furies threatened both the Prince himself and his Ministers with Plagues, for the avenging of their Blood. The Verses be-

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De Branchi
qui loco n
dedere, et
Valefi A.
in p. 388.

Alii Divi
tionis huj
alium mo
narrant, q
dam ale.
μανειαν
nemo Nec
mantiam
eund. ibi
Sed fides
us Ammi
qui hoc vi
tempore, a
inda est.

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ing produced and read, they were ordered to withdraw, by this time almost dead with tortures. A.D. 370.

79. Then to clear further the evidence, were produced a great Company of the *Honorati*, in the number of whom, lay the depth of the Conspiracy; but every one indeavoured to devolve the burthen from his own Shoulders, to the back of another. At length *Theodorus* was Commanded to speak, who first applied himself altogether to Intreaties, that the Inquisitors would intercede for his Pardon; but afterward being constrained to speak further to the point, professed that the Reason why he did not discover the whole Practice to the Emperour, was, for that *Eusebius*, who first disclosed the matter to him, expressly forbid him, declaring that what should come to pass, was not to be effected through the prevalence of any Ambitious Passion, but by the absolute necessity of Fate. And *Eusebius*, being tortur'd Confessed as much; yet however, *Theodorus* was Convicted by the Evidence of his own Letters, written, though cunningly, to *Hilarinus*, whereby he signified that he did not doubt of the Success, but was at a loss how to find out a convenient opportunity, to put the Design in Execution. They being set aside, *Eutropius* who then Governed *Asia* with *Proconsular* Power, and probably was Authour of the Breviary of *Roman* History Dedicated to *Valens*, was accused as Accessary to the Crime, but was dismissed, after that *Pasiphilus* the Philosopher, though all indeavours were used, could by no torture be forced to Accuse him. But *Simonides* a young man, who Professed also Philosophy, could not deny but that from *Fidustius* he had been made acquainted with their Practices, and out of a firm Resolution of mind would not reveal it. Now the whole Discovery being made, the Emperour Consulted, with one Breath Commanded that all should be put to death; which was Executed upon them, to the Horror of Multitudes that beheld the Spectacle, all having their Throats Cut, except *Simonides*, whom because of his extraordinary Resolution, he Commanded to be burnt alive. After him many of all Sorts and Conditions, like so many Sheep were Butchered, Execution being first done, and then the Merits of the Cause enquired into, so that the Hangmen were quite spent with their labours, first of Torturing, and then Killing these miserable Creatures. Not long after, *Maximus* the Philosopher, the greatness of whose Reputation equalled his Name in those dayes, having Confessed that he heard what had been predicted by the Oracle, but out of Respect to his Profession, had concealed it, though he also fore-told that the Consultors would lose their lives, was brought home to the City of *Ephesus* where he was Born, and there Beheaded, when he was now sick of an Incurable Distemper; the Great Master of *Julian*, the late Emperour. Before this, to allay the Envy and Displeasure of the People, for such Carnage as was made, an infinite Number of Books were got together, and burnt in the sight of the Judges, as dangerous, and Prohibited, whereas indeed they were such as Treated of various profitable Subjects, as the Liberal Sciences, or the Civil Law.

80. And together with the Books, perished a great man of Law, one *Diogenes*, eminent for his Noble Birth, Wit, Eloquence, and mild Disposition, whose only Crime it was that he had a great Estate, having not long before governed *Bithynia*. *Alypius*, who had discharged the Office of *Vicar* here in *Britain*, was outed of his Estate, and sent into Banishment, his Son *Hierocles* having been maimed by tortures, and hardly escaped Execution. *Palladius* the Contriver of all these Villanies, in the mean time pursued his course; and by his Tricks brought so many into trouble, that he filled all the Provinces with Lamentations. To the end that the very Wives might not have time to bewail the miseries of their Husbands, when an Account was taken of the Household stuff of the Dead, by these Officers who did it, there were cast in, amongst the writings, some Charms or ridiculous Enchantments, which brought into Court before those Judges, who had neither Regard to Law, Religion, nor Conscience, thereupon they were seized, and as well young, as old, without any Defence made, were deprived of their Estates, and after all their limbs had been broken by torture, carried out in Chairs to Execution. Hereupon, throughout the Eastern Provinces, so great a Terror seized upon all sorts of Persons, that they burnt their Libraries, for they esteemed themselves in no better a Condition, than were the Guests of *Diorysius* the *Sicilian* Tyrant, over whose Heads, as they sat at meat, he caused Swords to be hanged by single hairs of Horses. The great Manager of all those Intrigues, together with *Palladius*, was *Heliodorus*, a Pleader of Causes, whom they called the *Mathematician*, a dissolute insolent fellow, who prescribed to *Valens* all his Methods, and after other manifold Forgeries, at length informed against

Horrible
slaughters
thereupon.

Sec. 2. *g*aint that excellent Couple of *Consuls*, *Eusebius*, and *Hypatius*, two Brothers, and nearly Allied to the Emperour *Constantius*, as if they aspired after the Empire; and withal he added this lie, that *Eusebius* had already provided himself of Imperial Robes. *Valens* was glad of the Occasion, and however by no means could their Innocence be overborn, it so evidently appeared; yet still did he make much of the Accuser, and they were both sent into Exile, and heavy mulcts imposed on them, which they paid; but shortly were they recalled, the money returned, and they restored to their former Dignities. Yet for all this, the Emperour would still proceed, and by many sad Instances shewed how it fares with a Couple, when the pride of a Sovereign Prince is joyned with sowerness and severity of Nature.

81. *Heliodorus*, how its uncertain, chanced to die; and being to be buried, many Persons of Quality were Commanded to precede the Corpse; and amongst others the two late *Consuls*, and Brothers but now mentioned. Neither could he himself for some time, by any means be perswaded from being present, but at length being prevailed with, he Commanded the Nobility to go before (as the Custom was; not to follow, as the use is at this day) on foot, with their Heads bare, and some with their hands folded together: a fit posture for such as had been formerly Graced with Consular Ornaments, wherewith to Honour the Carcass of a Rascal, who having first come to *Corinth* to sell Fish, when it happened that the Man of the House was sick, and could not attend a Cause he had to be heard in Court, he adventure'd to appear for him. Having heard the Pleadings of those at the Bar, he was tickled with a great desire of becoming Advocate himself, and joyning this practice to his other Trade, grew so Famous, that, as Confidence usually procures Clients more than skill, he was more employed than any man, and though laugh'd at, and scorned by sober and understanding Persons, yet he derided them again, and putting on such a Countenance as not to be dashed, he got great Wealth, became Advocate of the Treasury, and obtained further Preferment. Here *Ammianus* cannot abstain from exclaiming, and falling very foul upon *Valens*, for exposing so many Persons of Honour to so much Contempt; and further he tells us, that one thing else there happened, that made up the Roll of his Virtues. Generally he was so savage and unmerciful, that he was unwilling that death it self should put an end to the torments of Condemned Persons; yet there being one *Pollentianus* a Tribune, a fellow of a naughty life, Convict of ripping up a Womans Belly alive, and by taking out the untimely Birth, as he words it, of Consulting therewith, the Infernal *Manes*, concerning the Change of the Imperial Government: out of respect to their acquaintance and Familiarity, though to the Regret of Men of all Ranks and Conditions, he caus'd this Criminal to be dismissed, both with security of his life, and enjoyment of his Estate and Preferment. But Justice still watch'd how, and when, to Revenge the death of these Innocents, and the Furies as he saith, enraged by their death, kindled the Flames of *Bellona*. Yet in the mean time, mischiefs befall the Provinces of *Asia* upon another occasion.

The Cruelty
of *Festus* Pro-
consul of *Asia*.

82. There was one *Festus*, Born at *Trent*, a man of very mean Parentage, and a sworn Brother of that bloody *Maximinus* formerly mentioned, who, as Fate would have it, going into the *East*, first had the Government of *Syria* committed to him, and thence was preferred to be *Magister Memoria*, which Office having Discharged with such mildness as became him, he arriv'd at the high Trust and Employment of *Proconsul* of *Asia*. All this while, when he heard of the Cruel and insufferable demeanour of *Maximinus*, he made a shew of great dislike, but when he understood how a man so undeserving, meerly for such Services, was Preferred to the *Præfectship*, he was inflamed with a desire of Compassing the like Honour by the same means; and like to a Player, having changed his Habit, presently began to act another sort of Person, still imagining he should be *Præfect* in a very short time. And so he bestirred himself, as to imitate what his Friend had done at *Rome*. A Philosopher called *Ceronius*, one of no small desert, he killed with excessive and cruel torments; for that in a Familiar Letter written by him to his own Wife, he us'd a form of speech which was but proverbial, and tending to cause the Reader or Hearer to give greater Attention, and receive a greater Impression of what was written or said. A silly old Woman that pretended to Cure Agues by a Charm, he put to death, though she had lately Cured his own Daughter, and was sent for to it with his own Knowledge and Consent. There was an Eminent Burge's of a Town, amongst whose Papers was found the Nativity of one *Valens*

Valens ran-
dom fuisse exi-
stimat cum
Ruso Festo, qui
etiam Bruti-
um Imperi-
scripsit ad Val-
entinianum, non ad
Valentinianum.

σὺ δὲ πρὸς τὴν γυναῖκα
σέφε τὴν θυγατέρα

Sec. 2.

Calculated; whereupon he was Examined, upon what account he had pried into the Fortune of the Emperour. He affirmed that his own Brother of that Name, was the man, and he was already dead, which, though he offered to prove, yet could he not be heard; but being before mangled with tortures, was put to death. A certain young man was observed in the Bath, to touch a Marble stone by the Fingers of both his hands, one after another, to put them to his Breast, and to say over the seven Vowels, which he imagined was a Remedy against the Pain of the Stomach; but for so doing he was judicially convicted, tortured, and then beheaded. So sad was the Condition of the Roman Subject in the Eastern Parts; while in the Western our Author tells us, he finds all things confused or out of order. For now was *Maximinus* (so much spoken of) become *Præfēt*; and by reason of his Power and Authority had opportunity of doing mischief himself, and of exciting the Emperour to Acts of Severity, who with the greatness of his Fortune too often intermingled his Licentious Will; and being naturally very cruel, when there was none other to advise him but *Maximinus*, would fall into such Fits of Passion, that not onely his Countenance, but his Voice, his Colour, and his wonted manner of walking would change.

A.D.

370.

Maximinus
made *Præfēt*,
and governs
Valentinian.

The cruel ef-
fects thereof.

83. One of his Pages, a well-grown Youth, being appointed in Hunting to hold in a Slip a *Spartan* Hound, because he let him go sooner than the Game required, the Dog falling upon him and biting him, was beaten to death, and buried the same day. The Master of one of the Fabricks or Forges, having made him a Currate exquisitely polished, when for his Workmanship he expected a Reward, he commanded to be put to death, because it was somewhat less in weight than he ordained. *Epirates* a Priest he commanded to be slain, because he would not discover *Octavianus*, who had been *Proconsul* of *Asia*, and having been accused of some misdemeanour, had concealed himself in his House. *Constantianus*, one of the *Stratores*, or those that had the charge of providing Horses, for venturing to exchange some of those he was sent into *Sardinia* to make choice of, was by his command stoned to death. One *Athanasius* a Charottier, being forewarned by him to forbear something of no considerable consequence upon pain of being burnt, when found to have committed the crime, notwithstanding he had taken great pleasure in his Sports, was by his order reduced to Ashes. *Africanus*, an industrious Pleader of Causes, having (as the manner was with Advocates) governed a Province, when he desired to be removed to a better Employment, and *Theodosius* the *Magister Equitum* moved him in his behalf, his Answer was, *Go, Comes, and change his Head, who desires to have his Province changed*: And so the poor man lost his Life for but endeavouring that which was commonly practised. A certain obscure Fellow accused *Claudius* and *Salust*, two Officers in the Army, who from the number of *Joviani* had been advanced to the Command of Tribune, for that when *Procopius* usurped, they had spoken kindly of him. The matter was diligently inquired into, but nothing could be made of it; which when *Valentinian* perceived, he ordered the *Magister Militum*, who had the hearing of the Cause, to banish *Claudius*, and condemn *Salust* to death, promising that when he should be led as to Execution he would send him a Reprieve; but this being done, *Salust* neither escaped death, nor was *Claudius* (or *Cladius*, as some Copies have it) freed from his Banishment till the death of the Emperour. Other matters *Ammianus* lays to his charge, but the particulars are not to be made out, the Copies of his History, which now are extant, being in those places so marred and imperfect. However he tells us, he was afraid to recount all he could say, lest he should be thought out of design to search into the Vices of him, who otherwise was a good Prince, and most studious of the Publick Safety. But one thing he thinks ought not to be concealed, which was, that he kept two She Bears, that were wont to feed upon Mans Flesh; the one he called *Mica aurea*, and the other *Innocentia*, and was very careful that they should lie near his own Bedchamber, and want nothing to maintain their Fierceness. And *Innocentia*, after he had seen many Carcases devoured by her, as one that had well deserved Liberty, he let go loose into the Woods. These are evident Proofs of the Cruelty of his Nature; yet was he most watchful and sagacious for the safety of the Empire, neither can any of his Detractors say, that he ever failed in that point.

84. Such is the Account we have from *Ammianus* concerning the Cruelties of both the Brothers. That raging of *Valens* in the East upon the matter of a Successor is attested by the generality of Writers, though with some difference of Circumstances. *Socrates* the Ecclesiastical Historian writes, That the Devil procured some that

were

Sect. 2.

Socrates bears witness as to the Cruelty of Valens upon the butinefs of a Succellor.

were given to those Arts, by Necromancy to enquire, who it was that should succeed him in the Empire: That after his manner he gave no plain and direct Answer, but one very obscure and doubtful, as that the Mans Name began with four Letters, ΘΕΟΔ, and that it was compounded. The Fame hereof so far spread, that it came to the Emperours Ears, who neither attributing things we call Casualties, nor referring the knowledge of things to come, nor the bestowing of Sceptres, to the Power of God, whose Providence ruleth all things; but forsaking the Precepts of Christian Religion, which he colourably pretended, put divers persons to death, who he imagined might be capable of the Imperial Dignity. He dispatched out of the way such as were called *Theodorus*, *Theodotus*, *Theodosius*, *Theodulus*, or the like; in the number of which was one *Theodosiolus* a Nobleman, whom he sent for out of *Spain*, and commanded to be killed. Hereupon many out of fear of their Lives changed their Names, which at their Birth had been given them by their Parents. That *Valens* was very severe against Diviners, Fortune-tellers, or such as cast Nativities, we are assured by a Law made by him about this time, to the enacting of which we may well enough conclude, that the Discovery lately mentioned gave occasion. It is directed to *Modestus* the *Praefectus Pretorio*, who (as we see by *Am- mianus*) was employed in the Tryal of Offenders; and it seems to have been no other than the Answer to the Consultation of him and his Fellow Judges, in the matter of *Theodorus*, *Eusebius*, *Entropius*, and *Simonides* the Philosopher, whereby the Historian tells us he commanded, that they should all be put to death. The Edict forbids the Practice of Mathematicians, by which is to be understood, the Art of Divination universal, and not as confined to Genitures. It inflicts no less than Death upon any who should be found to exercise it publickly or privately by day or by night, and as well upon the Learner as the Teacher, for this reason, because the fault of learning Prohibited matters is full as great as that of teaching. Yet the Severity of this Edict consists in the large extent of it; otherwise it was ever accounted High Treason by the *Romans*, to pry into the Nativity or Fate of the Emperour. *Tacitus* writes, that this amongst other Crimes was laid to the charge of *Lepida*, that she consulted the *Chaldeans* concerning the Family of *Cesar*; and *Paulus* delivers it for Law, that whosoever consults concerning the Safety of the Prince, or deep State-Mysteries, any Mathematicians, these they called *Arioli*, *Aruspices*, or *Vaticinatores*, should die for it, together with him that gave the Answer.

A Law of his extant again Mathemati- cians.

L. 8. de Malis
cis & Math-
mar. Cod. The-
s. tit. 16.

Neque enim
dissimilis cul-
pa est prohibita
discere quam
docere.

Vide Linden-
brogii Obser-
v. in Annu-
al. l. 29. p. 42.

Gratian the second time and Probus are Consuls.

85. The following Year, which was the CCCLXXI of our Lord, wherein *Gratian* the second time and *Probus* were Consuls, *Valentinian* spent in *Gall*, and the most part at *Triers*; *Valens* most at *Constantinople*, and some part at *Ancyra*. The *Praefect* of *Rome* was *Ampelius*, who had succeeded *Olybrius*; *Modestus* was *Praefectus Pretorio* of the East, *Probus* of *Italy*, *Illyricum*, and *Africk*; and *Viventius* of *Gall*. *Maximinus* was still the *Praefectus Amonis* and *Vicar* of the City of *Rome*; and those cruel Practices there against the Lives of Senators upon the account of Sorcery, carried on by him and his Agents, extended to this time, as may be collected from certain Laws. *Ammianus* writes, that the Nobility tired out with those perpetual Inquisitions, when every man conceived his own Life in danger, sent a Message to *Valentinian*, which was carried by *Prætextatus*, who had been *Praefect* of the City, assisted by *Venusianus* and *Minervius*, to intreat that Punishments might not exceed the quality of Offences, and Senators might not be exposed to Torture contrary to the Law. When the Messengers were admitted into Consistory, the Emperour (as we have seen) pretended ignorance of any such Practice, and said he was abused; till *Eupraxius* the *Questor* by his gentle way of Speech convinced him of other things. Amongst other matters whereof the Senate complained, it seems one was, that they were forbidden the use of the *Aruspicina*, and that they were generally involved in the crime of Sorcery; and they prayed for a general Act of Indulgence and Oblivion to the whole Senate. In answer to this he tells them, he cannot grant Indulgence to the whole Senate, lest he should accuse the whole; forasmuch as Indulgence takes off the Penalty, but not the Infamy of the Crime; but if it was desired for one or two Criminal Persons of that Order, it should not be denied. As for the *Aruspicina*, he denies that he reckons either that or some other ancient Rites, amongst the unlawful Magical Arts; and for this he appeals to the Laws made by him in the beginning of his Reign, of granting free Exercise of Religion to all his Subjects; neither doth he disallow of the use of the *Aruspicina*, so it were innocent. But whereas many persons of Senatorian Rank were accused as guilty of Magick, and they desired to decline the Jurisdiction of *Maximinus*, as

A.D.

371.

Gratiano

A. 2. &

Probo Co

Other Laws attest the cruel Practices of *Maximinus*.

L. 5. de Ind-
crim. C.
Th. l. 9. tit. 1.

L. 9. de Mal-
ciis, &c. C.
Th. ubi supr.

L. 10. de Ma-
gis, &c. ibi

we

we may well conjecture; he declares the *Præfext* of the City (in conformity to other Laws) to be the true and proper Judge of such persons. And in case the matter could not be decided by him, he requires that the Parties concerned, with the whole Process, be transmitted to Court to his own hearing; by which Reserve he cuts off the usual custom of Consultation in such difficult cases, and all hope of the Prisoner to escape Condemnation, if he himself was so resolved. This Edict concerning the *Præfext* of the City his being Judge, is directed to *Ampelius*, who was then *Præfext*, and of whom *Ammianus* makes mention, in that *Hymetius* was heard by him, and *Maximinus* the *Vicar*, and appealing to the Emperour was referred back to the Senate, which incurred his Displeasure, by inflicting upon him no greater punishment than that of Exile. In the last place *Valentinian* forbids *Ampelius* to send for any man out of his own Jurisdiction, or that was abroad in the Provinces, which yet the *Præfextus Prætorio* had liberty to do.

A.D.
371.

*l. 2. de Offi. io
Præfexti et
Cod. Jusl. l. 1.
tit. 28.*

86. To this *Ampelius* are directed several other Constitutions of this same year, to be taken notice of either here or in another place. *Valentinian* continued at *Triers* till about the end of *June*, and then by Subscriptions of other Laws we find him at a place called *Contionacum*, thought to have been the same with *Gentzingen*: For *Ammianus* assures us, that he had a great care of the Limits of the Empire; inso-much that if any Enemy was discovered from the Watch Towers once to stir, he was quickly apprehended. But his principal desire and aim was, either secretly or by open force to get into his hands *Macrianus* King of the *Allemans*, one who exceedingly incommoded the Roman Affairs, as *Julian* had formerly intercepted *Vadomarius*. The place of his Abode being discovered by some Fugitives, lest making a Bridge might cause an Alarm, he passed his men over the *Rhine* by Boats, and *Severus* (who had the command of the Infantry) being sent before, when he was come at the place called *Aque Mattiace*, out of just fear he should be overpowered by the numbers of the Enemy, made an Alt: The other Troops being all come up, they proceeded together, when the Moon was risen, and possibly might have executed the Design they were sent on, but that the Officers were no way able to keep the common Souldiers in order, but contrary to their express Command they would burn and spoil what they met in their way, and by Fire and Noise, discovered their Approach to the Kings Guards, who suspecting what was intended, put him into a Chariot, and conveyed him into a place difficult of Access amongst the Mountains. The Emperour then disappointed of his hopes, neither by default of himself nor of his Captains, but the Intemperance of his Souldiers, (which often cost the Romans very dear) after he had wasted the Enemies Countrey for fifty miles upward, returned melancholy to *Triers*. There he bore his Misfortune (to use the Comparison of our Writer) as a Lion would do whose Prey had escaped his hungry Jaws. But while the *Allemans* were yet in terror, (for they were frightened though not much hurt) he appointed *Fraomarius* to reign over the *Bucinobantes*, a People inhabiting just over against *Mentz*. But *Fraomarius* found it not worth his while, his small Kingdom being quickly overrun, (or his *Pagus*, as *Ammianus* truly terms it) and therefore the Emperour sent His Majesty over into *Britain* with the Power of Tribune, over the Regiment of the *Allemans*, which at that time here flourished, both in respect of the Number of Men and their Courage. Moreover, to *Bitendus* and *Hortarius*, two principal men of the same Nation, he gave Commands, of whom *Hortarius* was by *Florentius* the *Dux* of *Germany* convicted, to have held Intelligence with *Macrianus* and others of the Barbarians, and the truth being found out by Torture, was burnt alive.

*Rigem Frao-
marium ordi-
navit.*

*Quoniam
verens excur-
rendum pen-
as
vastaret pa-
gum.*

makes a
for the
keeping
Prisoners.

87. Such was the Success of *Valentinian* in the Field, when he endeavoured to make those Prisoners he could not catch. We suppose his Design more prosperous which he now had, for the safe-keeping of his own Subjects when committed to Prison. From *Contionacum*, which lay somewhere betwixt *Triers* and *Mentz*, he directed an Edict to *Probus* the *Præfextus Prætorio*, wherein he declared, that the safe Custody of Prisoners belonged to the *Commentariensis*, one of the Officials of the ordinary Judge, who had his name from writing the Commentaries, or keeping the publick Books concerning Malefactors and condemned persons, which in old time was wont to be preserved in the *Ærarium* amongst other Records. The *Optio* was principal Master of the Gaol, but under him the *Commentariensis* looked to the Prisoners, provided them Necessaries, and gave an account of their Number and the Qualities of their Persons and Crimes to the Judge upon occasion; and he had under him inconsiderable mean People, whom as we at this day call *Keepers* and *Turnkeys*, so they in those days termed them *Custodes*, and afterward *Clivicularii*,

*l. 4. de Custe-
dia crimin-
Co. l. Tit. 3.
tit. 3.*

Sect. 2.

Reforms an
Abuse in
A.D. 347.And in the
unequal Mar-
riages of Wo-
men of Sena-
torian Rank.

who afterward became a Proverb for their Vileness. Sometimes the *Commentariensis* was employed to apprehend Prisoners, when tried he brought them to the Bar; and (as our Clerks of Assize) recorded all that happened at their Trial: For all which Services he had his *Adjutant* when the case required. But great Mischief was taken notice to have followed from these deputed to this charge, as Escape of Prisoners, because they judging themselves not to be principally concerned, were negligent in their business, which provoked *Valentinian* by an Edict, to require the Prisoner so escaping of the *Commentariensis* himself, and forbidding his Excuse, or laying the blame upon such obscure Fellows, and that by no less than his suffering the same Pain and Forfeiture which the Criminal himself should have undergone. But in case he was forced by some necessary occasions from his charge, he subjects the *Adjutant* or Deputy, to the same Penalty, in case a Prisoner was missing. At this time there was a Practice taken notice of in *Africa*, that much tended to the lessening of the Publick Revenue, which was, that such as had been made Heirs by the Testaments of their Relations or others, would enter upon those Lands that were good, but refuse to receive the barren or more unfruitful, because they would not pay the Tribute or Impositions due from them. To reform it, *Valentinian* by his Rescript directed to *Crescens* the *Vicar* of that Diocese, commands, that such as had by Testament left them Lands both good and bad, should either take to the whole Inheritance, or quit it all.

A.D. 347.
l. 17. de An-
na & Trib.
Cod. Theod. l. 11
tit. 1.

88. He was also about this time informed, that the Nobility or Senatorian Rank at *Rome* was very much dishonoured by Clandestine Marriages; especially by the younger sort of Widows, who being emancipated or dismissed from the Power or Authority of their Fathers, were wont to be wrought upon and enticed to Bargains of this nature by several persons, who made a Living of making Matches; by whom they were cheated, and joyned with mean, beggarly, and every way unfit and unequal men. To prevent this for the time to come, he wrote to the Senate, and gave express order, that no Widow of a Senatorian Family, under the Age of five and twenty, although she were emancipated, should marry again without her Fathers consent first obtained, if he was living. If her Father was dead, the Approbation of her next Kindred he required, as *Severus* his Predecessor had formerly done in the Marriage of Pupils, or those who had not arrived at Puberty. But whereas it might happen, that the Humour of the Kindred might be unreasonably averse to that of the Woman, or perhaps being to succeed her in her Inheritance, in case she died without Children, they might out of design oppose her Marriage; therefore when any difference so happened betwixt her and her Kindred about her Choice, the matter should be determined by the ordinary Judge, who in case there was an Equality in Merit and Fitness in the men contended for, was to determine in favour of the Widow. This was in conformity to other Laws, which, when the Mother and Kindred cannot agree about the choice of an Husband for a young Maid, refer it to the Cognizance of the ordinary Judge or Governour of the Province. As to that prevalent Objection, That the next Kindred might hinder the Marriage out of design, he ordains, That such as were to gain by her death, if she died without Children, should not intermeddle, but the matter referred to those at further distance, who had no such Expectation. But besides this Custom at *Rome*, there was another thing relating to Marriage, which about this same time he thought fit to reform: *Constantine* the Great, to work such Reformation in Manners as was suitable to the strictness of the Christian Profession, amongst other things earnestly desired to take away the use of Concubines; which that he might the more easily effect, he encouraged such as made use of them and had no lawful Wives, to change them into Wives by lawful Marriage, and making such Children as they had by them before Marriage completely Legitimate. But as he would encourage them by this Privilege to marry the Mothers, so on the other side he could not but think it Policy to deter them from living in that dissolute condition, by taking from their Natural Children (for so were they called) in case they would not marry their Mothers, certain Privileges allowed them by the Law; as that in case there was neither Legitimate Children, Father, Mother, Brother, Sister, Uncles, or other Kindred, they were allowed to inherit. This rigour now *Valentinian* thought fit to mitigate, not restoring the former Privilege in full, which he did by an Edict directed to *Ampelius Praefect* of the City, ordaining, That if so be a man had Legitimate Children, or left a Father or Mother, and had also a Concubine and Natural Children by her, he might leave them or her a twelveth part of his Estate; and in case he had none of the said Legitimate Relations, of his whole Estate divided into twelve he might leave them three.

l. 1. de Nup.
Cod. Theod. l. 7.l. 1. de
valibus l.
Cec. Cod.
4. tit. 6. l.
Com. Got

Sect. 2.

three. This his Brother *Valens* at first did not approve of, but afterward confirmed for the sake of *Libanius* the Sophist, who having never been married, but had a Son by a Concubine, when he was now about sixty years old and like to die, was solicitous for this his Natural Son, that he might have wherewithall to live.

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89. Another Law there's extant of this year, in like manner directed to this *Ampelius*, which acquaints us that the Inquisitions about Sorcery, and the Prosecution of Senators upon that account, of which too largely we have heard from *Ammianus* were not yet ceased. Whether it was upon desire of the Senate, and complaint against the Cruelties of *Maximinus*, by one Law before mentioned *Valentinian* declared the *Præfekt* of the City to be the proper Judge of Senators, but still (as may be guessed) to have a reserve for his own Severity, he ordered him in case any difficulty occurred which he could not determine, not to consult him, but to send both the accused Party and his Process to the Court, as we have already recited. But with this was joyned another Rescript, by which appears the Dissimulation either of the *Præfekt*, or the Emperour himself, or both. It declares, that the Senate ought to have the liberty of the *Cursus publicus* whensoever they have occasion of sending their Messengers to him, which he proves by Reasons drawn from the Practice both of the People of *Rome*, and of the Provincials; for if they had the Privilege of making use of it upon such occasions, much more ought the Senate to have it, the Members of which he desires often to see as his Colleagues. We find elsewhere, that they sent their Messengers to him with Complaints, to which *Ampelius* might give his Assistance by obtaining this Edict, or hereby the Emperour was desirous to cover his Rigour to them, as by the obliging term of Colleagues, it being not unusual still for Princes to profess themselves of their Body. By the Date of this Law we find him at the later end of the Year returned again to *Triers* from his Expedition; during which we must see what was done by his Brother *Valens* in the East.

declares that
he use of the
usus belongs
to the Senate.

L. 22. de Cursu
publico, Cod. Th.
Dat. Treviris 8
Id. Dec. quam
misere tam in-
terpolavit Tri-
bonianus vide
apud Gothofr.
in Com.

90. The first thing we find him employed in at *Constantinople*, was about the Publick Revenue, for supply of the Rolls, when any died that was obliged to the *Census* or Imposition. In such a case by a Constitution inscribed to *Modestus* the *Præfektus Prætorio*, bearing Date on the fifteenth of *January*, he orders, that the Number be made up out of the *Adcrecentes*, or such as were to be next inrolled, living in the same or some neighbouring Countrey. His pleasure is, that none but Governours of Provinces make this Supply, and for this end that the Plebeians, whom it concerned that they should not be burthened, and their *Defensors* should appear before them, and produce the Names of such as were fit to be inserted; and they were to hear all Allegations and Complaints, and determine the matter. Which was much better than to leave it to the partial Affections and Interest of the several *Defensors*, or Plebeians themselves. This was to be practised in case of Mortality; but if any had deserted their Habitations, and withdrawn themselves, then was no such supply required: but the Fugitives were to be sought for and brought back. And this it behoved him to take care of, for there were several persons, whom their Dignity and Employments privileged from these Payments, amongst whom were the Sons of those that served in the Palace or *Palatini*, and such of their Slaves as they had purchased by Money gotten in the publick Service. By a second Constitution directed this year to the same *Præfekt*, and from this place, appears how mean the Dignity of Senators was there at this time; and on the contrary, to how great a degree the Reputation of the *Navicularii* was advanced. Thereby he takes care for supply of the Body of these men through the East and the Diocese of *Ægypt*: For their Encouragement, he allows them for every ten thousand *Modii* of Corn they should transport freedom from the Imposition of Wine, Corn, and the like for every fifty Acres of Land, though not from that of Horses and Clothes. For the making of their Ships he will have Materials afforded by the Provincials; but the charge of repairing them must lie at their own doors. In the next place he will have transmitted to himself the Names of them all in two several Lists, whereof the one to represent those that were of the old standing, and the other of such as were newly admitted. And he gives them of the East all the Privileges which belonged to their Brethren of *Africk*, on condition that they and their Estates remained for ever obnoxious to the Charge and Office. In the last place he himself gives a List of such persons, as out of whom the choice of *Navicularii* might be made; as first out of the Administrators and others of the *Honorati*, who had obtained this Dignity by Codicils or Letters Patents, (to whom in common, notice was wont to be given, if there happened any extraordinary occasion) those of them excepted which served in the Palace, who were

Valens in the
mean time
takes care of
his Revenue.

L. 7. de Cen-
sus, Cod. Th. l. 13.
tit. 10.

L. 14. de Navi-
culariis, Cod.
Th. Absq. a Cod.
Just.

and indulges
the *Navicula-*
rii.

Sect. 2. not tied to this Duty. Also from amongst the *Decuriones*, and such as anciently had served in the Employment; out of the *Primipilares*; and even from amongst the Senators themselves, if any of them desired with their Estates to be joyned to the Company. Yet by another Law did he provide for the Honour and Ease of the Senators of *Constantinople*, (whence these three bear Date) in discharging them from the Duties of Corporations, if they had by their Merits ascended to Places of Dignity; otherwise if they had only obtained Honorary Titles by Codicils, (against which he inveighs) he exempts them from all such Privileges, except they had got the Honorary Dignity of the greater sort of Magistrates, as far as the *Consularitas*. And also taking care that Corporations might not be unserved, by another bearing date on the thirteenth of July from *Ancyra*, to the same *Modestus*, he prohibits *Curiales* their concealing themselves in the Houses, and under the Protection of their Patrons the great men, imposing Infamy upon such as should harbour them. For there were great Abuses committed by these Patronages in all Ages, as well in that as other respects; yet still they continued from the time of *Romulus*. The first use of them we have observed out of *Dionysius Halicarnassens*, in the History of the Foundation of *Rome*.

And the *Curiales*.

The Consulship of *Modestus* and *Arintheus*.

Valentinian calls the Sons of the *Curiales* into the Field.

Firmus usurps in *Africa*.

Theodosius sent against him.

91. For the Year next ensuing, which was the CCCLXXII of our Lord, and the fifteenth Indiction, *Modestus* and *Arintheus* were Consuls, *Ampelius* was *Præfect* of *Rome* till the Moneth of August, and then was succeeded by *Bapo*; *Clearchus* executed the like Office at *Constantinople*; the *Præfectus Prætorio* of the East was *Auxonius*, and *Probus* still of *Italy* and the other Dioceses. *Valentinian* for the most part resided at *Triers*, and sometime at *Nassonnacum*, thought to be a place in the Forest of *Ardenne*; and *Valens* either at *Antioch* or *Selencia*. *Valentinian* lying in *Gall* took care for strengthening the Northern Parts against the Attempts of the *Allemani*, *Quadi*, and *Marcomanni*, and that by several Laws. The Sons of the *Veterani* he ordered to be forced to Service, wherever they had bestowed themselves, though in the publick Offices of Cities, or those of the Governours of Provinces, onely such as were obnoxious to Civil Employments, or the Duties of the *Curia*, he signifies he had given order to the Illustrious *Comites*, and the *Magistri Equitum* and *Peditum*, that they should not meddle with; or if they had forced them into the Field, they were to remit them to their several Concernments. That he was justly moved to reinforce his Troops, for the carrying on of his Designs, we shall see presently, when first we have given the Reader an account of grievous Com-motions which now happened in *Africk*, because we would willingly follow the order which *Ammianus* in his particular Narrations hath taken without breaking them off. One *Nubel*, a pettit King, but the most potent in *Mauritania*, dying, left behind him Sons both legitimate and begotten of Concubines, whereof one called *Zamma* being murdered by his Brother *Firmus*, this act gave original to great contention: For *Zamma* was much beloved by *Romanus* the *Comes* of those Quar-ters, who resolved to omit nothing that might conduce to a full Revenge of his Death, but very much sollicitated the matter in the Emperours Court, where his Relations endeavoured to render *Firmus* every way odious to *Valentinian*. He willingly suffered all the Complaints against him to be read; but on the contrary, whatsoever his Friends alleaged in his behalf was coldly received; for when they urged that his Answers might be perused, *Remigius* the *Magister Officiorum*, the Ally and Friend of *Romanus*, would affirm, that amongst so many great and weighty Affairs of the Empire, those frivolous and superfluous matters ought not to interpose. This being made known to the *Mopr*, he thereupon apprehended that his Defence being cast aside, he might be condemned as an Enemy or Contumacious Person, and so at length be surprized and slain: To prevent which if possible he revolted, and with a Diadem assumed the Title of King.

92. It was thought convenient to suppress him before he should grow too strong; and to this work was *Theodosius* appointed, with no great Force taken out of the Souldiers called *Comitatenses*, bearing still the Dignity of *Magister Militum*; a Man (*Ammianus* tells us) of greatest Eminency in those days, and to be compared with *Domitius Corbulo* and *Lusius*, whereof the one in the days of *Nero*, and the other under *Trajan*, were famous for many gallant Actions. Departing from *Arles* he passed the Sea, preventing all noise of his coming, and landed at a place called *Igilgitanum*, belonging to that Province known by the name of *Mauritania Sitifensis*. There by accident he found *Romanus*, whom, without taxing him with any Misdemeanour, he sent away to put in order the Foreguards, and he being gone into that part of *Mauritania* called *Cæsariensis*, he dispatched away *Gildo* the Brother of

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L. 74. de Decurionibus, Cod. Th. de off. d. Cod. Just.

Inanes verò umbras & cas-las Imagines Dignitatum Codicillis si-lantes, nihil adjuvare præ-cipimus.

L. 76. cod. tit. ibid. Lex omnibus 31. Cod. Just. cod. tit.

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Modesto & Arintheo Cons.

L. 8. de filiis militar. 7. tit. 22. L. 78. de Decurionibus in. &

L. 12. de Cohortibus in. & L. 8. tit. 4.

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of *Firmus*, who yet continued in obedience to the *Romans*, together with one *Maximus*, to apprehend *Vincentius*, who having served as the Deputy of *Romanus*, had been Partaker with him in his Villanies and Rapines. But when all his men were come over, he hasted to *Sitifis*, and gave order that *Romanus* should be taken into custody by the *Protectors*. While he lay in the Town he was something perplexed in his thoughts what course to take for his men, that had been accustomed to cold Climates, and were now come into an hot Countrey, as also what way he should lead them; and he knew not well how to manage his business with the Enemy, or any way entrap him, who was used to flie to and fro, and not engage but in sudden Onsets. However *Firmus* was sore dismayed at the coming of so eminent a Captain, and betook himself to Intreaties both by Messengers and Letters, craving pardon for what was past; which he would not take upon him to defend, but was driven to it by intolerable Injuries, the truth of which he would engage to make good. *Theodosius* thought fit to comply with him, and promised him pardon upon receipt of Hostages, which having declared he went to the Muster of the Forces belonging to the Diocese of *Africk* at *Panchariana*, where he had appointed the Rendezvouz: There he cheered the Minds of the Souldiers by good words accommodated to the Exigency of Affairs, and then returned to *Sitifis*, now desirous of some Action. For he had wrought a good Correspondence betwixt the Souldiers of the Diocese and those he brought over; and he had got the love of the Countrey by his obliging Carriage; and this thing in particular, that he would not suffer it to be burthened with the Maintenance of the Army, using this Expression, that *The Harvests and Stores of an Enemy are the Granaries of Valiant men*. But besides his Civil Demeanour, the Emperour himself at this time seemsto have courted in some measure the Military Men of this Countrey. For there's an Edict extant directed about this time to these *Moors* of *Sitifis*, of whom *Ammianus* so often speaks, whereby he declares, that if any one was found to have served five yeai... in the Army, and had well demeaned himself, though his Grandfather and Father both had been *Decuriones*, yet he should be himself free from the *Nexus Curialis*, as it was termed, or Service of Corporations, but not his Children; and the diligence of twenty five years in the attendance of the Judges of Provinces, should onely capacitate a man to obtain that Privilege. Reason there was indeed that *Valentinian* should please the Souldiers in so critical a time, rather than any other sort of persons; but much more there was to reconcile all Parties to him, if what *Zosimus* writes be true, that the *Moors* themselves revolted, and put the Purple upon *Firmus*, out of Impatience that they were haralled by the Rapines of *Romanus*. He adds, that the Report hereof disturbing *Valentinian*, with all speed he caused certain Troops, which lay in *Pannonia* and the upper *Myfia*, to quit their Posts, and pass over into *Africk*.

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L. 6. de re militari, Cod. Th. Absq. à Cod. Just.

Lib. 4. 744.

he defeats
two Nations
of *Africk*.

93. *Theodosius* from *Sitifis* marched to a place called *Tubusuptius*, adjoyning to the Mountain *Ferratus*, and there he discovered the Treachery of *Firmus*, who thither sent to him other Messengers, but without any Hostages, as had been agreed. Refusing to hearken to what they delivered, after full deliberation he resolved to fall with speed upon the Nations of the *Tyndenses* and *Masinenses*, who were but meanly armed, and commanded by *Mascizel* and *Dius*, two other Brothers of *Firmus*. He easily worsted and made great Slaughter of them; which done, he wasted the Countrey, and razed the Borough of *Petra*, built lately by *Salwaces* another Brother, in the Shew of a City. Encouraged by this Success, with wonderful Celerity he went and possessed himself of another considerable Town, where he caused to be laid up Plenty of Provisions, that in case he made further progress into the Inland Countries, he might have a Store much nearer at hand. In the mean time *Mascizel* rallied his broken Forces, and venturing a second time to engage, received another Defeat, hardly escaping with his Life by the swiftness of his Horse; which *Firmus* hearing, and considering with himself how he had now lost two Battels, sent some Christian Bishops to intercede for him, accompanied with the Hostages he had formerly promised. The General courteously received them, especially upon promise that his Men should be supplied with Provisions, and gave them so good an Answer, that the *Moor* having sent some Presents before him ventured to give him a Visit, but upon an Horse he thought might bring him off, if he liked not the Prelude of his Entertainment: Yet amazed at the Majesty of the *Roman Empire*, which appeared in the glittering of the Ensigns, and especially in the face and demeanour of *Theodosius*, he alighted from his Horse, and bowing himself near to the ground, with tears bewailed his Folly and Rashness, and begged pardon for his

Firmus comes
in person and
begs pardon.

Of

Sect. 2. Offence. Because it behoved the State of Affairs that it should be so, he received him with a Kiss, as the Emperours were wont to do Governours of Provinces; and now being full of hope, he procured Necessaries to be brought to the Army, and leaving his Hostages departed, promising also to send back the Prisoners he had taken when he first revolted. And within two days he surrendered *Icosium*, together with the Military Ensigns, and other things he had taken, amongst which was a Sacerdotal Crown, for the Pagan Priests were wont to wear such Golden Ornaments. The General proceeded to a place called *Tipasa*, where the Embassadors of the *Mazices* met him, who had joyned with *Firmus* in his Revolt; to whom when they begged pardon, he gave no more comfortable Answer than this, that he would make War upon them, and with that comfortable Message bid them return into their own Countrey.

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Hearing that *Firmus* meant deceitfully, he marches to secure himself and the Army.

94. Thence marched he to *Cesarea*, a wealthy and noble City in former times, which now finding waste and desolate, he therein bestowed the First and Second Legions, to put it into order, and fence it against any fresh Attempt of the Barbarians. While yet he continued in this Town, he had so good Intelligence, as fully to discover that *Firmus* meant nothing less than Peace, and onely watched for an opportunity by an unexpected Attacque to destroy him and his Army, whereupon he proceeded and took up his Quarters at *Sugabbari*, a Town of *Mauritania Cesariensis*, where he seized on the fourth Cohort of the *Sagittarii*, that had revolted to the Rebels, whom (to shew himself no way cruel) he onely punished by deposing them to the lowest Service in the Field, (a course of Discipline we formerly observed usual with the *Romans*) and commanded them with part of the Regiment of Foot called *Constantiani* to come to *Tigavia*, (another Town of the same *Mauritania*) together with the Tribunes, of whom one had put a Wreath instead of a Diadem about the Head of *Firmus*. He animadverted upon them, as also on *Bellenes* and *Fericius*, two principal men amongst the *Mazices*, whom being brought Prisoners by *Gildo* and *Maximus*, he caused to be put to death. This wholesom Severity shewn, he took and razed a Fort named *Gaionatis*, which having a strong Wall about it, was the securest Refuge of the *Moors*; and this done, he went forward to the Castle of *Tingitanum*, and by way of the Mountain *Ancorarius* fell upon the *Mazices*, who were gathered together in one Body; and being indeed an hardy People, made at first a vigorous Resistance, but were overthrown and all put to the Sword, except such as cried for Quarter after they had made a Retreat, which (the time requiring it) was granted them. But for all this so great Multitudes of the *Moors* from other Quarters poured themselves down upon him, that being but three thousand five hundred strong, he thought not fit to hazard the Emperours Army against such Numbers, and therefore keeping a mean betwixt a Fight and a Flight, he gave ground, and by degrees retired. Hereat the Enemy took such heart, that they pursued and stopt up the Passages so, that all the *Romans* had been lost; but that by an happy mistake the *Moors* took some of their own Countrey-men for a fresh Supply come in to *Theodosius*, because they saw some *Romans* at the Head of them. Affrighted hereat they fled, and opened the Passages in such manner that his Men escaped.

Is in danger of being destroyed.

Being overpowered by Numbers he betakes himself to craft, and breaks the Enemy by delaying.

95. *Theodosius* made a safe Retreat to a place called *Muzucayum*, where perceiving on what terms the matter stood, he resolved his business lay not in the Field at present, but that he must betake himself to the Arts and Stratagems of *Fabius Maximus*. He sent some that were expert in the Art of Persuasion, to draw the Neighbouring Nations into an Association, partly by good words and partly by threatenings; and herewith drew out the time in length, and broke them by delays, as *Pompey* overcame *Mithridates*. For *Firmus* sensible hereof, though he was sufficiently provided of Guards, yet quitted the Field, together with those Multitudes he had with charge and pains brought together; and taking opportunity of a still and dark night retired toward the Mountains *Caprarienses*, at a great distance, and by reason of the craggy Rocks and Precipices, for the most part inaccessible. The Multitude amazed at his departure, and now without an Head, soon was scattered, by which means *Theodosius* seized upon his Camp, and when he had wasted the Countrey at his pleasure, set over the several parts thereof such Governours as he could trust. *Firmus* heard that he pursued him, and to escape his hands, with a few Servants made all the haste he could to be out of danger; for which purpose he cast away his most precious things he had brought along with him, that they might not hinder his Flight. But for all this the *Moors* rallied again, and

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and having possessed the Hills, took advantage of a Truce they had obtained of the General in his Return, to provide themselves of a great Supply of the neighbouring *Æthiopians*, who in such heaps rushed upon him, that he was again glad to retire, though his men struck their Bucklers against their Knees, and earnestly desired to try their Fortune with them. He went and took a Fort, where *Firmus* had bestowed the *Roman* Prisoners, whom setting at liberty, he punished those that had been the Betrayers and Keepers of them. Now he had Intelligence, that *Firmus* himself was fled into the Country of the *Isastenses*, whither therefore he resolved to pursue him, and he demanded him, together with his Brother *Mazaca* and others, to be given up into his hands. This they stoutly refused, and not only so, but very malapertly insulted with their numerous Forces, whom yet he ventured to engage, and that with such Success, that after a total Rout, though *Firmus* escaped very difficultly, yet was his Brother *Mazaca* taken Prisoner, and so dangerously wounded, that he died as soon as he was dressed. The General after this Victory thought fit to animadvert upon the *Isastenses*, whom he punished several ways. *Eneasus* an Eminent Person amongst them, with *Florus* his Son, and some others openly convicted to have sided with the Rebels, he caused to be burnt alive.

96. Yet did not this so much discourage *Firmus*, but being again fore pinched by *Theodosius*, he fled unto them for succour a second time; and *Igmazen* a King of those Tracts, very rich and potent, when the *Roman* General pursued him, bore himself very high and sawcily against him in his behalf: For he made so far bold as to confront him, and demand what he was, and what his business was there. He answered, That he was an Officer of *Valentinian* the Lord of the World, sent thither by him to suppress a Robber or Thief, whom except he would speedily deliver up into his hands, he should utterly perish together with the Nation he ruled. *Igmazen* yet could not forbear Reviling him; and away he went in very great wrath. The next morning betimes he presented him with the sight of near twenty thousand men in a Front, behind whom stood great numbers of Auxiliaries, and amongst them were the *Jessaleni*, though they had promised the *Romans* a supply both of Men and Victuals. The *Romans* were a small Company in comparison of them, but encouraged by former success, took good heart, and placing their Flanks close together, fitted their Targets in the same manner one to another and therewith making a kind of Rampart, stood their ground, and defended themselves. From morning to night the Fight lasted, and when it grew towards the evening *Firmus* appeared upon a tall Courser, and with a loud voice endeavoured to persuade the *Romans* to deliver up their General, who, he affirmed, ought to be abhorred by them as a Bloody Man. And though his words upon some had no other effect than to provoke them the more to fight, yet others thereupon left the Field. Therefore when it was dark, and there was no fighting, did *Theodosius* draw off to a Castle not far distant, where he mustered his Men, and such of them as Fear and the Words of *Firmus* had caused to quit their Stations, he punished several ways, some by cutting off their right hands, and others by burning them alive. Very careful he was all the night to secure himself against the Attempts of the Enemy, of whom those who adventured to set upon the Camp, he either forced to retreat, or took them Prisoners.

97. Thence with haste he departed, and fell upon the *Jessalenses* by such ways as they little expected, and having utterly wasted their Country, by the way of *Mauritania Cesariensis* he returned to *Sitifis*, where after great Tortures almost to death, he caused to be burnt *Castor* and *Martinianus*, who had been great Assistants to *Romanus* in his Rapines. Not long after he turned his Arms again upon the *Isastenses*, and at the very first made great slaughter of them, which so disordered *Igmazen* the King, who had not been wont to be beaten, that considering in what danger his Affairs stood, and into what mischief he should force them if he continued obstinate, he secretly withdrew himself out of the Army, and humbly besought *Theodosius*, that *Masilla*, a principal man amongst the *Mazices*, might come to him. By him he held Correspondence with him, and advised him by frequent Skirmishes to tire out his *Isastenses*, so that he might more easily draw them off from the Interest of *Firmus*, to which they were very much inclined. The General observed his Directions, and by frequent Alarms so wearied them, that they ran away man by man, and *Firmus* having lurked here and there, when he considered how and whither to make his Escape, was stopt and secured by *Igmazen*. He now understood how matters had been carried by *Masilla*, and perceiving there was no hope of bet-

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Sec. 2.
From a driven
to such a us,
that he hangs
himself.

ter Fortune, he resolved to despise that Life which he could not secure, and therefore having drunk plenty of Wine, (a course often used by such as were resolved to lay violent hands upon themselves) when his Keepers were fast asleep, by reason they had taken as great a dose, he rose from his bed, and creeping on all four found a Cord, which happened to be ready for his purpose; and putting it upon a Nail that stuck in the Wall, therewith he hanged himself, to the great grief of *Igmazen*: For he sorrowed much, that he was deprived of the glory of carrying him alive to the *Roman* Camp; but however resolving to make as much advantage as the occasion would permit, he laid the Body upon a Camel, and having got safe Conduct by means of *Masilla*, went and presented it to *Theodosius*, having shifted it to a Pack Horse. The General joyfully received it, and in a Triumphant manner returned to *Sitisis*, where he was solemnly and joyfully received by all sorts of People.

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372.
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A.D.
374.

Theodosius after
all his Ser-
vices was put
to death.

98. Such is the Account *Ammianus* gives us of the Arms of *Theodosius*, but what became of the General himself after his Victories he tells us not; either out of respect to his Son the Emperour, in whose time he wrote; or out of forgetfulness, or else the Copies we now use are defective. But what is omitted by him, or obliterated in his Books, we must by no means pass by, that this *Theodosius*, after all his brave Achievements in *Africk*, was upon the malicious Suggestions of certain Courtiers put to death, which he generously underwent, after he had (according to his own earnest desire) been baptized at *Carthage*. But this happened four or five years after, according to the course of the History we pursue, which, having in an uninterrupted Method delivered what we can say of *Firmus* his Rebellion, brings us back to the Motions of the Northern Nations, upon account of which we said several Laws had been made. For whilst *Theodosius* was so employed in *Africk*, the *Quadi* suddenly took Arms, a People at this time not much to be feared, but very formidable in former Ages; witness the Siege of *Aquileia*, carried on by them and the *Marcomanni*, the razing of *Spitergium*, and many other Bloody Actions performed by them, to which with great difficulty a stop was put in *Dioclesians* days by *Maricus*, who to meet them broke through the *Julian Alps*. But at this time whereof we write, they had too great cause of complaint and quarrel. *Valentinian* from his very first coming to the Government, had burnt with a generous indeed, but extravagant desire of fortifying the Limits of the Empire. To this purpose he built Castles and Forts, as in other places, so beyond the River *Ister*, upon the very Lands of the *Quadi*, as if they had been under his own Dominion; at which they were very much discontented, and to remove the Eye-fore did what they could by Messages to hinder the Prosecution of his Design. But *Maximinus* that cruel Incendiary, of whom we have already too much spoken, being now advanced to the *Prefectship*, and transported partly by his Pride thereupon, and his natural humour of Domineering, by Letters rebuked *Æquitius*, who was then *Magister Militum* in *Illyricum*, as a careless and improvident person, that the work was not performed; and he bragged, that if his little Son *Marcellianus* was but made a *Dux* in *Valeria*, the Fort would in a short time be finished. And his Son *Marcellianus* was accordingly advanced to that Command, and not at all degenerating from his Fathers high-flown Humour, renewed the Work, which for some time had been intermitted. Hereat *Gabinus* their King much concerned himself, and in modest terms desired, that no cause might be given of Jealousie and Discontent betwixt his People and the Subjects of the Empire. *Marcellianus* seemed to like well of what he urged and invited him with others to a Feast; but breaking all the Laws of Hospitality caused him to be made away ere he departed.

Vide Valisii
Annot. in Am-
mian. l. 29.

A.D.
374.

Valentinian
disobliges the
Quadi.

Quod si parvo
suo Marcellia-
no deservirent
potestas, &c.

Gabinus their
King perfidi-
ously murder-
ed.

Thereupon
they and o-
ther Nations
break into
the Roman
Territories.

99. This put not only the *Quadi*, but all the neighbouring Nations into a mighty rage, who bewailing the Kings death fell speedily into the *Roman* Pale in the time of Harvest, and so unexpectedly attacked the Reapers, that they made great Slaughter of them; which done, they repassed the *Danube* with very large Booty. And it nilled but little, that the Daughter of *Constantius*, as she was at Dinner in those Quarters, being on her way in order to be married to *Gratian*, had been surprized by them; but *Messala* Governour of the Province attending her, in good time put her into a Chariot, and with all speed imaginable conveyed her to *Sirmium*, twenty six miles distant from that place. Here was now resident *Probus* the *Prefectus Prætorio*, so much talked of, a man so little acquainted with the Attendants of War, that he was out of measure affrighted at the Slaughters and Rapines he now heard committed, and scarcely able to look up, prepared him swift Horses to make an Escape: But he was (though with much difficulty) prevailed with to stay; for

Sect. 2.

thus de
estellus
etorio affa-
d to fly
tifies Sir-
m.

ic Enemy
s off two
gions.

ung Theo-
lus, Son to
n lately
mentioned,
rably de-
rs the free
rmate.

ber over-
ws to an
traordinary
oportion.

alentinian
forms an
use in the
ny con-
ning the
rescentes.

for they laid before him how upon his departure the whole Garrison would quit the place, which must thence necessarily fall into the Enemies hands. Since he could not without shame remove, he resolved to secure himself as well as he could by Fortifying the City. He scoured the Ditches that were choked up, and being naturally given to Building, he repaired the Walls, which in so long a time of Peace, had been utterly neglected, and were run to ruine, defraying the Charges thereof out of the Money laid up for building of a Theatre. Besides this he seasonably sent for a Cohort of the *Sagittarii*, which lay in the very next Station, to assist in case of a Siege; which, the Barbarians duly considering all Circumstances, thought not fit to lay to the City. Their intent was to hunt and prosecute *Æquitius*, who (as their Intelligence gave them to understand) was the Contriver of *Gabinus* his Death; and they resolved to pursue him into the far distant Parts of *Valeria*. In their way they were encountered by the two Legions *Pannonia* and *Mæsaca*, both which made up a considerable Army, and such as had they been unanimous, would have proved invincible. But whereas Consent and Union were the onely means to make them Victorious, they fell into contention about Honour and Precedence, which the *Sarmatae* were not so dull but speedily to apprehend; and therefore without staying for the solemn sign of Battel, they first set upon the *Mæsacan* Legion, which so little expected any such matter, that very many of them were killed before they could buckle on their Armour. Animated by so great success, they then attacked the *Pannonian*, and putting it to the rout, destroyed all whom speedy flight had not conveyed beyond danger.

100. Whilest these Legions had through their own folly so ill success against some of the *Sarmatians*, the Army that fought under *Theodosius* the *Dux* of *Mæsia*, a very young man, (who afterward arrived at the Imperial Dignity) by the good Conduct of their General, whose Wisdom and Courage exceeded his Years, got notable Advantages against such of that Nation as were termed Free Men, (in opposition to the Slaves of whom we spake formerly) who having invaded the *Roman* Pale, were often worsted by him; and though Numbers of them flocked about him, and imagined they should overpower him, yet still had he the better; and if you will have the Expression of *Ammianus*, so great a Slaughter he made, as therewith to satisfy the ravenous Appetites both of Birds and Beasts. The Barbarians then finding that no good was to be done, but that notwithstanding all their Attempts they were still beaten back, desired Peace; which having obtained, they for some time observed, being kept in awe by a great supply of *Gallican* Souldiers, which were sent for defence of *Illyricum*. While these Disorders happened in the Northern Quarters, in the Southern little Disturbance was made, but by the River *Tiber*, which by reason of excessive Rains swelled to an extravagant proportion. All the lower parts of *Rome* it overwhelmed, while the Hills themselves seemed to apprehend a danger; to which the Inhabitants having fled, were thither pursued by Famine, and late enough rescued from its Violence by Provisions carried to them in Boats from the neighbouring Parts. This seasonable Supply doubtless they ought in a good measure to the care and vigilance of *Claudius* their *Præfect*, who carried himself in his place with great temper and serenity, and restored many things which had been by the force of Time brought into disuse. Amongst others he raised the *Porticus*, which had its name from *Good Event*, adjoining to a Temple so called in the North Region of the City, near to the Baths of *Agrippa*. Such is the continued series of these Affairs, as they are related by *Ammianus*, who hath herein transported us too far, for when the Commotions began in *Africk* about the Revolt of *Firmus*, *Ampelius* (as we said) or else *Bapo* was *Præfect* of *Rome*, and not *Claudius*, whose Government happened sometime after.

101. To reassume therefore Civil Matters where we left them, when we began to speak of the *African* Wars, several other matters of consequence we find done this Year, as well by the one Brother as the other. *Valentinian* having a constant Eye upon the Northern Enemies, and for that purpose having employed *Severus* the *Magister Peditum* against *Macrianus* King of the *Allemans*, found reason to reform an Abuse he perceived in his Army. There were those they called *Adcre-scentes* in every Regiment, who (as we have already said) were Supernumerary Souldiers; or rather being listed in the Army never fought, but were in readiness to succeed such Souldiers as died or were dismissed. Some of these were not as yet fully grown or fit to bear Arms, but were exercised by the Officers of the Camp, though others of them were able enough for Service, and both sorts were wont to be provided for at the Publick Charge. But the Emperour now, to save Char-

A.D.

372.

Forum Euen-
tum præcipue
colabant Agri-
cole.

LIII. de
Militari, cap.
Tulgentius
Abel a cod.
Joff.

Sect. 2.

Publishes a
Constitution
about the
Place and Pre-
cedence of his
great Officers.

ges so ill bestowed upon unserviceable persons, by an Edict directed to Severus commands, That no Maintenance be allowed to the first or younger sort out of the Publick Stores, but that till they be able to bear Arms they be supplied with Necessaries by their Parents. While he lay at *Najonacum* he directed a large Constitution to *Ampelius* the *Præfect* of *Rome*, concerning the Rank and Place of the greatest Officers. Thereby he declares the *Præfect* of the City, the *Præfectus Prætorio*, and a *Magister Militum* to be equal in Degree and Dignity; for as yet there were onely these three which were *Illustrious* by peculiar Title, neither till now was the *Magister Militum* equal with the other two. But he now thought fit to confer on all the like Degree with this Caution; That after the Discharge of their Offices, and their returning to a Private Life, they should take place of one another according to their Seniority in their Employments, or the Dates of their Patents, like as they had done when they were in Power. This Rule he would have observed when they met upon the Bench of any Judge, when they saluted the Governour of a Province, or at any ordinary Assemblies; but not in the Senate House, or at his Privy Council, where he would have the ancient Laws about Precedence to be in force. For, the *Honorati*, or those who had born Offices, were permitted to sit with the Judges of Provinces in their *Secretaria*, or places of Judicature, and to be present in the Senate and other Publick Meetings. And whereas *Valentinian* makes mention of other Rules of Precedence of ancient Date in the Senate House, but tells us not what they were; we may well believe that the Custom was for the *Præfect* of the City, and the *Præfectus Prætorio*, to take place in a Civil Assembly (as Civil Magistrates) of the *Magister Militum*; the *Præfect* of the City first, as the Head of the Senate in those days.

102. Such was the Order he would have observed amongst those great Officers of the City and Provinces. By another part of this Constitution he settles the matter of Precedence betwixt such as gave him their constant Attendance in the Palace, declaring that the *Quæstor*, the *Magister Officiorum*, and the two *Comites Largitionum*, should take place of *Proconsuls*, which till the making of this Law they had not done. In the third place he provides, that the *Magistri Scriniarum* (viz. the *Magister Memoria*, *Epistolarum*, and *Libellorum*, to whom afterward was added the *Magister Dispositionum*) should precede all *Vicars* of *Præfects*, a Privilege which had not formerly belonged to them, which equalled them with *Proconsuls* and Governours of Provinces, above whom shortly after they were also advanced. And whereas there were many deserving Commanders in his Armies, who being as it were the Deputies of the *Magistri Militum*, were termed *Comites Rei Militaris*, and appointed to defend some particular Provinces of the Empire. Such of these Persons as had been so employed in Parts beyond the Seas, (by which are to be understood in this Age the Provinces of *Africk* in respect to *Italy* and *Rome* especially; and also these Provinces of *Britain*) and had already obtained to be *Comites* of the first Rank, should take place next to or near *Proconsuls*. It was thought to be a matter of greatest Merit to have commanded Armies in places that were barren, dry, difficult of Access, and far separated from any Succour; for even such as had been sent on a Mellage to the Emperour from beyond the Seas, were excused from Duties for two years space. These *Comites* in particular were he of *Africk*, as lately *Romanus*, the other of *Tingitana*, of *Britain*, and of the *Litus Saxonicum*, or *Saxon Shore* here in this Island. These often were advanced to be *Magistri Militum*, but by no means are to be confounded with them, who by Dignity were *Illustrious*; for they were subject to their Command as well as the other *Comites Rei Militaris* of the Provinces, whom they onely excelled in having some of them obtained to be *Comites* of the first Rank, but still by Dignity were but *Specstabiles*. In the last place the Emperour Ordains, That such as by Codicils or Letters had obtained the Titular Dignity of *Magistri Equitum*, should in like manner be inferiour to such as were practically, or by Office *Proconsuls*, the Dignity of whom was very great. These are the several parts of this Constitution directed to *Ampelius*, at whose instance it seems to have been made, for he himself passed through most of these Employments.

Valens provides for the
Citizens of
Constantinople
in several re-
spects.

103. As *Valentinian* provided for the Dignity and Precedence of his principal Officers, so this same year did his Brother *Valens* much consult the Encouragement and Advantage of the Citizens of *Constantinople*, and that various ways by one and the same Constitution, (though divided now into several Laws) directed to *Clearchus* the *Præfect* of that City. In the first part thereof he provides, That none should

A.D. 372.
l. 1. de Præf. Præf. five Or- bis, Cod. Th. 6 tit. 7.

l. 1. Cod. Just. cod. tit. hinc desumpta.

L. 1. de Quæribus, Cod. Th. 6. tit. 1. Abest à Com. Just.

L. 1. de M. stris Scri- rum, Cod. Th. 6. tit. 11.

L. 1. de Com- bus Rei Mi- taris, Cod. Th. 6. tit. 14.

L. 4. de H. rariis Cod. lis, Cod. Th. tit. 22.

Sect. 2.

should sell the *Annona Civica*, or the share of the Publick Bread, but it should be-
come void by such Sale, and some other of the same Rank be capable of having
that Allowance, not those of any other Rank: For whereas there were three seve-
ral sorts of Men that had this Allowance, viz. those called *Populares*, or of the
People, *Militares* or Souldiers, and *Palatini* or such as served the Emperour in his
Palace, he forbids that any Confusion be made by the Assignation of what belong-
ed to one sort to another. Hereby he consulted for the Maintenance of the Inha-
bitants, that the Publick Allowance should not be appropriated to unfit or unde-
serving Persons: And he further took care for the Improvement of their Know-
ledge and Ornament of their Minds. Near twenty years before, *Constantius* had
erected a Publick Library in this City, and appointed a Keeper or *Curator* of it,
with some under Officers and a Publick Stipend; for which he is much commended
by *Themistius*. But further by this Constitution *Valens* appoints to the well or-
dering and management of it seven others by the name of *Antiquaries*, for the ma-
king up of new Books, and mending of the old. Of these four were to be *Greeks*,
and three that spake and wrote in the *Latin* Tongue; the greater number of
the first kind, because *Greek* was the Language of the place, and there were more
Books composed in that than in the other. And for their Maintenance he assigns
them a Portion of the *Popularis Annona*, which was taken back to the publick Gra-
naries by the death of the former Possessors, or any other voidance; forasmuch as
he says that they also had Title to it, being of the Body of the People. Further, for
the better keeping of the said Library he Ordains, That there be appointed to that
Charge other under Officers by the name of *Conditionales*, so called as others were,
for that by reason of their *Condition* they were subject to Questions and Tortures.
In the last place, as for the Maintenance and Studies of the Inhabitants of this City,
so he provides for their Pleasure and Recreation: Whereas hitherto the *Pretors*
had observed no certain day for entering their Office, and celebrating the usual
Games, but were wont to shift it off from one time to another; he ordains expressly,
That New Years Day, or the *Calends* of *January*, shall be the Day to be observ-
ed by them all four, upon pain of forfeiting half as much more as the Charge of
the Pastimes they were to be at. He might think them the more obliged to do
this, because scarcely a moneth before for their Encouragement he had ordered,
That out of his own Stables four and twenty Horses should be lent to those two of
them, who were at the greatest Expence for exhibiting their *Curule* Games.
About four moneths after in this same Year his Brother *Valentinian* published an
Edict, for the search after such as absented themselves by reason of the Expence,
and the lessening of the Charge; requiring that the Senate, which had petition-
ed him in this matter, should report to him the Wealth and Sufficiency of each per-
son chosen to that Office, that he might determine of it according to the Ability of
the Party.

A.D.
372.
L. 7. de Anno-
nis Civica.
C. 1. de Col. Th.
L. 1. tit. 17. Ab-
st. à Cod. Just.
L. 2. de Stud.
lib. 1. tit. 1.
L. 1. de Ant.
L. 1. tit. 9.
Abst. à Cod.
Just.
L. 2. de Pre-
toribus, Cod. Th.
Dat. 8 Id. Maii
L. 1. tit. 1. de Pre-
toribus, Dat. Id.
April. ad Se-
natum.
L. 21. de Pre-
toribus, Dat. 11
Cal. Sept. Naf-
naci ad Bap-
nem. P. 17.

Is indulgent
to the *Navic-
ularii*.

104. As *Valens* found reason to be indulgent towards the Inhabitants of *Con-
stantinople*, so also to give relief to the Body of the *Navicularii*, who brought them
their Provisions, in case a Shipwreck happened without their fault: In such a case
the *Navicularius* is required to betake himself immediately to the Judge of the
Province, where the matter was in Controversie, and there prove the Shipwreck
before him by Witnesses, whether Strangers that saw the Misfortune, or by Mari-
ners, who were subject to Examination. Then was a Report thereof to be made
to the *Prefectus Prætorio*, particularly to *Modestus* of the East, to whom this
Law is directed; but the business to be transacted within the space of one Year,
which was thought large enough for Ships that sailed from *Syria Phœnice* or *Syria
Cæle*. For, this Law was published at *Berytus*, a most Eminent City of the for-
mer in other respects, and for that a very rich Trade was driven from hence of very
choice Merchandize sent to the Court, as of Purple, Silks, and other things; so
that though *Tyre* was now the chief City and Seat of the *Consularis*, yet were Laws
sent thither to be published: And at this time *Valens* lay at *Antioch* in *Syria Cæle*,
or at *Seleucia*, not far distant from it. Thus we see how indulgent *Valens* was at
this time to several sorts of his Subjects, but in the mean time he forgot not the pub-
lick Revenue, and Service due to the Commonwealth. For not long after was an-
other Edict published at *Berytus*, from him directed to *Leontius* the *Consularis* of
Phœnice, requiring that all Merchants whatsoever should pay the Gold or *Lustra-
lis Collatio*, as well such as traded in Purple as others; giving this reason, that Immu-
nities granted to some persons were injurious to the People in general. Now so great
was the esteem of Purple, and those other sorts of Wares, that it procured to the

L. 1. de Navic-
ulariis, Cod.
Th. l. 13. tit. 9.
C. l. 2. Cod.
Just. cod. tit.
ubi quæritur
lucinaturs est
Thiomasius,
vide in Com.
L. 9. de Lustra-
lis Collatione,
Cod. Th. l. 13.
tit. 1. Abst. à
Cod. Just.

Requires the
*Lustra-
lis Colla-
tio* of all Mer-
chants.

Sect. 2. Merchants as considerable Privileges ; which now *Valens* thought fit to recall, and by two other Laws under severe Penalties he forbade at the same time private persons to entertain or conceal such as wove or made up the Clothes that were provided for his Souldiers.

The fourth
 Consulship of
Valentinian
 and *Valens*.

105. The next Year, which was the CCCLXXIII of our Lord, had for Consuls *Valentinian* and *Valens* the fourth time ; it being the tenth of their Reign. *Valentinian* seems to have resided at *Milan*, and *Valens* at *Constantinople*. While such Mischiefs happened as followed the Death of the King of *Quadi*, slain by the Treachery of the *Roman* Captain, another Disaster fell out in the East, occasioned by the Treacherous Murder also of *Paras* the King of *Armenia*. There were some turbulent Persons, amongst whom one *Terentius*, a *Dux* of the neighbouring Parts, who never ceased to write to the Court strange things against him, though he was now arrived at Mans Estate, and still inculcating the Death of *Cylax* and *Artabannes*, affirmed him insolent and a great Oppressor of the People. Hereupon, as designing strange matters in his Head, he was invited to *Tarsus* in *Cilicia*, and being there received in an Honourable manner befitting his Dignity, was kept no otherwise than a Prisoner. When he perceived he was neither permitted to go to *Valens*, nor could learn from any the cause of his Restraint, it made him very solicitous and inquisitive ; and at length he discovered by some secret Intelligence, that *Terentius* had written to the *Roman* Commander to dispatch away some other person into *Armenia*, to be King in his stead ; lest he going back into his Countrey, should out of indignation conceived for his ill usage, withdraw himself and that Countrey, from the Empire to the Alliance of the *Persian*. Hereupon concluding with himself that his Destruction was near at hand, except he evaded it by sudden flight, he resolved with three hundred trusty men, who had attended him out of *Armenia*, to force his passage and be gone ; and having very swift Horses, when the day was almost spent they made their Attempt, with more Courage than Consideration. The Governour of the Province, stirred up by his *Apparitor* that had Charge of the Gate, overtook him in the Suburbs, and would have perswaded him to return ; but out of fear of his own life, was glad to break off his Discourse, so vehemently was *Paras* bent upon it. Neither had a Legion better success that was sent after him, against which he turned and made head, and so terrified both Tribune and Souldiers, that they made more haste back than they had used in the pursuit. He was now much delivered of his Fears, but for all that made what speed he could, and in two days and as many nights reached *Euphrates* ; which being at a great loss how to pass, at length he and some few made a shift by Barrels joyned together to get to the other Bank, and the rest swam over as well as they could, and after endeavoured to reach the place they designed. In the mean time *Valens* had notice of his Escape, and taking it for granted that he would renounce the Alliance, dispatched with a thousand Archers and other light armed men, *Daniel* and *Barzimeres*, whereof the first bore the Dignity of *Comes*, and the other held the place of Tribune of the *Scutarii*. They knew the Countrey very well, through which he passed altogether a stranger, and by more compendious ways overtook him, and dividing their Forces seized upon two Paths lying at three miles distance, by one of which he was to pass : But a Traveller, who coming this way had discovered the Ambushes laid to intrap him, taking another cross way, made known to him the danger, and lead him through that woody place to the common Road, by which he got safe to *Armenia*, where he was not a little joyfully received. But *Daniel* and *Barzimeres*, who had been sent to hunt him, were as much scorned and derided for having thus missed of their Prey ; which so greatly affected them, that to make some amends for their supposed Stupidness or Treachery, they cast about how they might some other way destroy *Paras* ; and to this purpose thought best to make use of the Credulous Humour of the Emperour, whom they made to believe that he was very expert in Inchantments, and knew thereby how to waste and debilitate a mans Body insensibly, which he easily applied to his own Person. And hereupon he conceived implacable malice towards him, and consulted daily with them or others how his Destruction might be brought about, either in a publick or private manner. At last, private Orders were sent to *Trajan*, who in *Armenia* commanded the *Roman* Forces, to accomplish it as well as he could ; and he managed the matter with such cunning, by insinuating himself into his Company, frequenting his Table, and by presenting him with kind Letters from *Valens*, that he prevailed with him to accept of a Dinner at his House. An extraordinary Entertainment there was made, no want of any thing that might provoke him to eat and drink to such a pitch, as would give

A.D.
 373.

L.L. 6, 7. di
 Mavilegulis,
 Cod. Th. l. 10.
 tit. 20. & Cod.
 Just. l. 5. eod.
 tit.

A.D.
 373.
Valentini-
ano & Va-
lente A.A.
Coss.

Ammian. l. 3.

Sect. 2.

Paras King of
Armenia basely
murdered.

For which
Valens de-
servedly suffered
in his Repu-
tation.

A.D.

372.

give the Entertainer most fit Opportunity to bring about his Design, who withdrawing from the Table as forced by some necessary occasion, sent in a Fellow provided for the purpose, who cut the poor Prince in pieces, as he vainly endeavoured to defend himself. Thus the Table which (as our Writer observes) was sacred and intaminate upon the very *Euxine* Sea, was made a Snare to him; which thing *Fabricius Luscinus* (he who rejected the Offers of *Timochares*, or (as some wrote) of *Nicias* the Servant of King *Pyrrhus*, who offered to poison his Master) if dead men have any sense of Humane Affairs, could not but bewail.

106. *Valens* with all good men suffered loss of Reputation by so unworthy an act; and yet *Sapor* the King of *Persia* was very much afflicted upon the Report of it, conceiving he had lost a great Opportunity of strengthening his Interest by the Accession of so considerable a Friend, as before this he doubted not but *Paras* would prove. But the *Roman* Army in these Quarters taking more Courage at what had happened, he thought it best to send one *Arfaces* on a Message to the Emperour, to persuade him to ruine that *Armenia*, which had been the cause of so much mischief, or else to give way that the Division of *Hiberia* might not be observed hereafter; but the *Roman* Garrisons removed, and that *Aspacures*, whom he had preferred, might be suffered to reign over the *Armenians*. To this *Valens* answered, that he was resolved to stand to the last Agreement, and maintain that Treaty to the utmost. And *Sapor* made a Reply, but when Winter was now almost spent, and that founded upon light and frivolous pretences; for he affirmed the Controversie could not fully be decided, but by the Intervention of those who were employed by *Jovian* at that Treaty, some of whom he certainly knew to be dead. The Emperour upon this Message thought fit to send away *Victor* the *Magister Equitum*, and *Urbicius* the *Dux* of *Mesopotamia*, towards *Persia*, to desire, that, as he pretended he would be content with his own Dominions, and suffer *Armenia* to be at its own liberty; and to assure him, that except he would suffer his men to pass up and down as they ought, he would enter into such a course as he was very unwilling to be forced to do. These Instructions were good enough, had the Embassadors kept close to them; but herein they were overseen, that they accepted of some small Territories in *Armenia*, which were offered to them, without any Warrant so to do; and not having any other thing effected, they returned home. After them was sent the *Surenas*, the second in place from the King, whose Offers were rejected though he himself was magnificently entertained; and then were great Preparations made, that *Valens* in Spring might with three Armies invade *Persia*; to which end he sent to purchase the Assistance of the Northern Nations. *Sapor* thus frustrated of his hope, was exasperated above measure; but concealing his Indignation, when he perceived the Emperour to be Arming, he ordered the *Surenas* to reduce what had been gotten by *Victor* the *Comes*, and *Urbicius*; and to cut off if possible those Souldiers which were appointed to the Defence of a place called *Sauromaces*, which things took effect and were not to be cured; the *Goths* at this time striking a terror into those who steered the Helm of the Empire. While these things happened in the East, Vindicative Justice (as *Ammianus* observes) concerned it self for what Villanies had been committed in *Africa*, in relation to the Affairs of *Tripolis* lately related. Now was *Remigius*, who so favoured and assisted *Romanus* in his extravagant acts committed in that Province, reduced to a private life, after that *Leo* was made *Magister Officiorum* in his stead, and was intent upon his Countrey Concernments about *Mogontiacum* or *Mentz*, where he was born. Being thus reduced, *Maximinus* now advanced to be *Præfectus Prætorio* despised him, and making it his business to do mischief, laid hold on one *Cæsarius* who had been his Domestick, and afterward came to be Notary to the Prince, and tortured him to make him confess what *Remigius* did, or how much he received to be assistant to *Romanus* in his cruel Practices. *Remigius* having notice hereof, being pursued by an evil Conscience, or overcome by fear, to prevent all other Inconveniencies changed himself.

Valens makes
great Prepa-
rations for
war with
Persia.

Remigius the
wicked In-
strument of
Romanus
hangs himself.

Valens takes
care to secure
the Lives and
Fortunes of
his Subjects.

107. *Valens*, however he dealt with the *Armenian Paras*, yet by several Laws at this very time, took care that his Subjects should not, by any slight, or other indirect course, be deprived of their Lives or Estates. Therefore in case of Appeal he required that the whole Process containing Evidences or Instruments, Acts of Court, Testimonies, Confessions, and all other things transacted in Judgment, should be transmitted to him, when he himself was the *Judex ad quem*. More-
over he ordained, that none should be convened or judged out of his own Pro-
vince, which must be understood when there he was to be had; otherwise the

L. 25. de Ap-
pellation. c.
Consultation.
Cod. Tit. L. 11.
tit. 3.

Judge

Sc. 2.

Judge of one Province might send to another to seize and remit a Criminal, which had fled out of his Jurisdiction, as is evident by many Laws. But whereas by the old Law had been provided, That when one person accused another of any Crime, he was to write down his own Name, and at his peril undertake to prosecute or make good his Charge; this either through the Negligence or Cruelty of the ordinary Judges was at this time much neglected. He thought therefore to reinforce that Law by another Edict, by which he declares, That whosoever brings into question and danger, the Fame, Fortunes, Life, and Blood of another Person, must expect the Punishment due to the Crime which he cannot prove. And yet further against Defamations he declares to be in force not onely the old Laws, (as the *Edictum perpetuum de Calumniatoribus*, the *Lex Cornelia de Injuriis*, and others) but also later Constitutions of Princes. In this same Edict he provides against rash Accusations, by pressing that no Accuser is to be heard without entering his Name, and taking the thing upon himself, as was lately said: But especially he condemns *Libels*, or Accusations having no Name of Author affixed to them. Whatever his Practice was, such were his Laws, and agreeable to them his Profession made to the Senate of *Constantinople*, and mentioned by *Themistius*, that the Commonwealth laboured under a greater Burthen when oppressed by Calumniators, than when overpowered by Barbarians. In reference to the renewing of Appeals he also ordained, That the Party should do it within three moneths, and thereof give notice to his Adversary.

108. *Valentinian* this Year further concerned himself about the *Prætorship*, that chargeable and troublesome Office incumbent upon Senators. He commands the *Prætor* to be named ten years before he should come to the Charge, as the Custom formerly had been; and that within five moneths after he should be informed of his Nomination by the Officers of the *Præfect* of the City, under pain of their forfeiting ten Pound of Gold. Having had notice he allows him seven moneths to deliberate whether he shall accept of the Burthen or make his Excuse; so that from the Designation to the Notification and Excuse an whole year should intervene, the usual fatal term (as it is styled) of Excuses in Civil Matters. Of such Excuses the *Præfect* of the City must have Cognizance, and a select number of Senators, in which none must be reckoned who had given their Vote for the Election of the Party, it being presumed that they might desire and endeavour to confirm what they themselves had done. These Judges he severely charges to admit no frivolous Excuses, nor any unreasonable Proposals on either side, on pain of being esteemed and declared publick Enemies, for having thereby dishonoured that sublime Body of the Senate. Him that unjustly excused himself he will have, as unworthy of the Honour, to be incapable of the *Prætorship*, besides a Mult imposed upon him if his fault was great; otherwise if but small, he shall be constrained to accept the Charge. If he had a just and fair Plea, he excuses him from the Burthen; as by another Law, (which seems but a part of one and the same Constitution) all those who for their Merit had obtained the Dignity of *Consul* or *Præfectus Prætorio* by Codicils or Letters Patents. This very Year *Gothofred* thinks *Volusianus* to have been *Præfect* of *Rome*, and therefore draws back those Laws, which in the old Chronology of *Theodosius* his Code are said to have been directed to him in the CCCLXV Year of our Lord, and the second of *Valentinian*, to that whereof we now write. For in that Year was *Symmachus* *Præfect* of the City; and *Ammianus Marcellinus* writing of the *Præfects* which were in the time of *Valentinian*, after *Apronianus*, reckons them in this order, *Symmachus*, *Lampadius*, *Juventius*, *Prætextatus*, *Olybrius*, and then *Ampelius*; so that *Volusianus* must have born the Office after all the rest. The first of the Laws drawn back to this Year, and directed to him, is concerning the *Prætors* also, for renewing one formerly made by *Constantine*, whereby was ordained, That if such as were to celebrate the usual Games absented themselves, according to the Degree of their Dignity, they should be condemned to pay a certain quantity of Wheat. This he declares shall continue fixed and inviolable, although it was often changed, abolished, and restored. The Mult imposed by *Constantine* was the Payment of Fifty thousand *Modii*, from which he excepted those that were under the Age of sixteen years; and sometimes distinguished *Quæstors* from *Consuls* and *Prætors*, as *Valentinian* by this his Confirmation excepts those to whom he himself had given Licence to be absent, as by another Law thought to be part of this very Constitution, the *Palatini* or principal Officers in his Palace.

A.D.

373.

L. L. 1. de
Accusationibus
de Inscriptio-
nibus, Cod. 7.
l. 9. tit. 1.L. 8. de famo-
sis, Cod. 1.
l. 9. tit. 34. l. 1.
de Com.L. 22. de Prae-
toribus, Cod. 1.
Cod. 10.L. 1. de Prae-
toribus, Cod. 1.
Cod. 10.L. 23. de Prae-
toribus, Cod. 1.
Cod. 10.In Chron. Hi-
storico ad An-
373.L. 18. de Prae-
toribus, Cod. 1.
Cod. 10.L. 67. de Prae-
toribus, Cod. 1.
Cod. 10.

Sect. 2.

109. Other Laws there are still extant directed to this *Volusianus*, whereof some appertain to the *Jus privatum*, and regulate the way of Proceedings in Suits, and are not so proper for our Cognizance. Another there is which assigns the manner and measure of finding Lime both to the Inhabitants of *Campania* and *Tuscia*. *Constantinus* had formerly by his Edict allowed to the Burners of Lime a certain quantity of Wine, viz. an *Amphora* for every three *Vebes*, and as much to the Carriers or Conveyers of it for every nine hundred pounds weight, paid by the Possessors of such Grounds, as were obnoxious to this Imposition. But *Valentinian* now thought fit to change this Wine for Money, allowing for every *Vebis* one *Solidus*, and that not all to be born by the Possessors of the Lands, but a third part by them, and a fourth by the *Arca Vinaria*, of which we have spoken heretofore. Such Provinces of *Italy* as abounded in good Wines were obliged to afford Wine to the City of *Rome*, and *Campania* with the chief, which is much celebrated by Poets in that respect, as well as by other Writers. And *Tuscia* also was comprised in the number. But whereas heretofore those Possessors of such obnoxious Lands were very much oppressed by the ordinary Judges and their Officers, who assumed the Power of Exacting of them Wine for as great a quantity of Lime as they pleased; the Emperour opposeth this Grievance by limiting what they were to find to three thousand of the lesser sort of *Vebes*. And in the third place he allots this Allowance to its several Issues or Receipts, viz. to the maintenance of the Aqueducts one half or fifteen hundred *Vebes*, (so great care there was at this time and ever had of them) and the other half to the publick Works of the City. But out of this Allowance he excepts that which was wont to be made by *Terracina*, or that which the Ancients called *Anxur*, the Hill whereof, on which it stood, had a great Quarry of that Stone, of which Lime was wont to be made, and appropriated to the repairing of the Haven and Watch-Tower of *Pharus* of *Hostia*. For the Emperour *Claudius*, to encourage Navigation, built there a most stately Tower, in imitation of that of *Alexandria*, on which he ordained Lights to be constantly kept by night; besides a most large Haven for the Reception of all sorts of Vessels, which *Pharus* was afterward repaired by *Antoninus Pius*, and both of them had not onely such a quantity of Lime appointed to the Repairing of them, but a Company or Body of Artificers, and an *Apparitor* or Overseer sent from the *Præfect* of the City, as is rationally conjectured. In the next place he pardons to the *Decuriones* of *Tuscia* no less than nine hundred *Vebes* of Lime which they were wont yearly to pay; for this Burthen had lain upon them as several others did upon the *Curiales*, or the Senators of Cities or Corporations. But with this condition he remits it, that if afterward there happen to be any necessity for raising some publick Work, upon notice given to him thereof by the *Consulares*, he shall determine how much Lime they shall find for the effecting of it; from which is collected, that *Tuscia* of old did not contribute this Stone for the use of the City, but for the Works which were raised within its own Towns, at the discretion of its peculiar Governours called *Consulares Tusciae*. Another Edict we find inscribed in like manner to this *Volusianus*, out of respect to the *Præfectus Prætorio*, by which Title he is styled in the same Inscription: It declares, That if any one having been cast by the Sentence and Judgment of the *Præfect*, had thought fit to supplicate the Prince, in case he was then also overthrown, there should be no more place for Supplication for the same matter or cause. For such was the Dignity of this great Officer, that out of respect to his high Condition no Appeal lay from him, but for Honours sake it was called a *Supplication*. The last Law that bears his Name is by Title of *Præfect of the City*, as indeed he was, occasioned it seems by a Difference betwixt him and the *Præfectus Annona*, concerning the Management of Corn. The Emperour declares, That the Care thereof be incumbent on them both, that so the one *Præfect* be not defrauded of his due; nor yet the Power of the other be abridged, but to that end that the Inferiour acknowledge the Preheminence of the Superiour, and the Superiour own what belongs to the others Employment.

Valentinian
changes the
Wine allowed
to Burners of
Lime into
Money.

Provides for
the Honour of
the *Præfectus
Prætorio*.

The third
Consulship of
Gratian with
Equitius.

110. For the CCCLXXIV. Year of our Lord, *Gratian* the young Emperour, the third time, with *Equitius* bore the Name of Consul. *Maximinus* from *Præfectus Annona* had ere this been advanced to be *Præfectus Prætorio*; *Enpraxius* was at this time *Præfect* of *Rome*, having formerly executed the several Offices of *Magister Memoria* and of *Quæstor*, and toward the later end of the Year was succeeded by *Claudius*; and of the same City *Simplicius* was *Vicgr*. *Valentinian* was now busied in raising a Fort near *Basil*, (by the Inhabitants of those Parts called *Robur*) after

A.D.

3 7 3.

l. 2. de Calcis
collocandis, Coli.
Fol. 14. tit. 2.
Ab. 1. a Col.
J. 1.

Ar. 2. Cl. 1. 1.
Fol. 14. tit. 2.
Ab. 1. a Col.
J. 1.

L. 5. de Preci-
bus Imperatori
offerendis, Cod
Juli. l. 1. tit.
19.

L. 1. de Officio
Præfecti urbis,
C. Cod. Juli.
l. 1. tit. 28.

A.D.

3 7 4.

Gratiano
A. 3. & E-
quitio Coss.

Sect. 2.
The Barbarians invade
Illyricum.

after he had wasted the Territories of the *Allemans*, when News was brought from *Probus* the *Præfect*, that the Barbarians had invaded *Illyricum*. This he would not easily believe, but to fetch a true account of the business, he dispatched away one *Paternianus* a Notary, by whom being informed that the Barbarians had indeed broken into the *Roman* Pale, he fully resolved by all means, and all speed he could make, to chastize their Insolence, not doubting but to drive them back by the very appearance of his Army. But ere all this was known and resolved, Autumn was already spent, and besides the season of the Year, several other Reasons there were to persuade him to stop his Journey; which those about him (though with extraordinary difficulty) did so much improve, that overcome therewith he put off his Expedition to the following Year. The greatest Argument used was the necessity of opposing *Macrianus* the King, who added so much Courage and Resolution to the innate Ferity of his Nation, that nothing seemed strong enough to withstand his Attempts. Therefore did the Emperour remove from *Milan* near to *Mentz*, whither the proud King also came to an Interview with him upon the River *Rhine*, and it had so good success, that a Peace was agreed and sworn to, which *Macrianus* kept inviolable to his Death, and died at last in *France*; for having invaded it with all sorts of Hostility, he was circumvented by the Wiles of *Mellobaudes*, a warlike King of that Countrey, and slain. This Peace thus established, *Ammianus* brings *Valentinian* into his Winter Quarters at *Triers*, and there leaving him visits the Court of his Brother *Valens* in the East, where he finds all out of order. This Prince, as he was by nature very rigid, delighted in hearing Causes, that he might shew his Severity upon such as he should find to be in the wrong. But his Courtiers concluding that their Trade would be spoiled, through that light he would receive by the Advocates, used their utmost endeavours to dissuade him from that practice, as a thing infinitely below him. And they found *Modestus* his *Præfectus Prætorio*, a Clown nothing vers'd in Antiquity, but perfectly a Slave to the Court Eunuchs, to be fully compliant with them, who would always tell him, that it was below His Majesty to condescend to hear such frivolous matters. This *Modestus* was that *Domitius Modestus*, who had formerly in the Reign of *Constantius* been *Comes* of the East, and when *Julian* came to the Government, was accused as having too much defended his Cause. But this Emperour being come into the Eastern Provinces, he feigned himself a Pagan, and thereby not onely appeased his Anger, but obtained to be *Præfect* of *Constantinople*, which Office he again executed when *Valentinianus Nobilissimus Puer* and *Victor* were Consuls, in the sixth year of this Emperour *Valentinian*, wherein he finished a most magnificent Cistern in that City, which he had begun in his first *Præfectship*, and from him being placed in the eleventh Region thereof, it had the Name of *Modestiacæ*. We have already spoken of his egregious Flatteries, and not likely to hear more of him, we further adde, that he had a Son by name *Instantius*, who also attained to be *Comes* of the East.

A.D.

374.

A Peace made
upon the
Rhine.

*Periit autem
in Francia
postea, &c.
Ammian. lib. 31.*

*Vide Valerium
in Annot. ad
Ammian. l. 31.*

Great Cor-
ruption in the
Courts at
Constantinople.

III. Hereby it came to pass, that both Judges and Advocates did what they listed, and made a Market of all mens businesses, delegating them to unfit persons, as their Interest and Profit suggested to them. And here our Historian falls into a great and long Invektive against the Advocates or Orators of this time, for their Rapacity, Ignorance, and Impudence thereupon commonly following; and the more to set them out he compares them with those of the *Greeks* and *Romans* in former Ages: And though he makes them as bad as bad can be, yet that he is not therein very extravagant, or acted wholly by Malice and Prejudice, some Laws made at this time sufficiently convince us, which by prescribing the Remedy, do to understanding persons sufficiently make out the Distemper. For these very Emperours by several Edicts thought fit to ordain, That no man should be Judge and Advocate, both, in the same Cause, that they should not break forth into opprobrious Language, for which they are so severely taxed by *Ammianus*; neither make any Contract before hand with their Clients, nor refuse such Fees as they thought fit freely to give them; that they should not industriously protract Justice; that the *Honorati*, or such as had born Offices, exercising the Function of Advocates at *Rome*, should thereby receive no Benefit or Reward, nor sit on the Bench with the Judges, but in the place we have formerly said to belong to them, or stand as Advocates were wont to do. But *Valentinian* concerned himself not onely in matters relating to Civil, but to Military Concernments also; for at the Suggestion of *Probus* the *Præfectus Prætorio* he ordered, That when there was necessity for some new Work to be raised, if the third part belonging to the City

*Vide L. 2. de
postulando Co:
Tb. l. 1. tit. 10
Cum Com. Gi
thofr. & L. 1
Cod. Just. 10:
tit.*

*L. 18. de Ope-
bus publicis,
Cod. Tb. l. 15
tit. 1. Abst
con- Cod. 328.*

A.D.

374

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Valentinian
orders offe-
rs to assist
another.

concerned could do it, it should be lawful to make up the Summe out of the Revenue of other Cities. For Cities or Corporations had certain Revenues appropriate to them, and particularly Tributes or Tolls; and of these Revenues part was ordained for Maintenance of publick Works, as a third by *Valentinian* in this Law whereof now we speak; to which Service certain Lands were destined or appropriate. In like manner by the ancient Canons and Ecclesiastical Laws, of the Revenues belonging to Churches, four parts or portions were made; whereof one was assigned to the Bishop for support of his Dignity; a second to the Priests, Deacons, and Clergy; a third to the Reparation of Churches; and a fourth to the Relief of the Poor, Infirm, or Strangers. Which Assignations were also made by the Laws of the *Lombards*.

orbirds the
illing.and the Ex-
posed of In-
fants.were against
ch as har-
oured
hieves.indulgent to
ainters in an
igh measure.

112. To *Probus* he gave out another Edict not long after, for clearing a Doubt concerning the Punishment of a notorious Crime, but too frequent in those days. It had been the Opinion generally both of Heathen and Christian Writers, That it was a Sin to kill Infants, although by reason of a depraved Custom in some places they were scarcely reckoned amongst Mankind, before they were delivered to Nurses. But however the Punishment due to the Offence was uncertain, the Offenders being most commonly but banished; till *Valentinian* now thought fit by this Edict to make it no less than Capital, as esteeming it altogether a Piacular Crime. The Law was proposed at *Rome*, and is rationally thought intended chiefly against the Practice of Strumpets, which too ordinarily made away their Bastard Children, both then and in all Ages besides. But as our Emperour thought fit to prohibit the Murdering of Children, so also the Exposing of them, by another Constitution, which commands each Parent to take care of his own Issue, under pain of undergoing what the Law imposeth in that case; and if the Lords or Patrons of any Children did so expose them, he declares them thereby freed from the Dominion of such Lords, and to belong to those who had taken Compassion of them in so great misery. So frequently were Robberies now committed about *Rome*, and chiefly by reason of the harbour and retreat they had to several places in the Countrey, that upon the Relation of the matter by *Simplicius* the Vicar of the City, *Valentinian* by his Rescript thought fit to declare, That whosoever received and concealed a Malefactor, should be liable to the same Pains and Forfeitures, as the Criminal himself ought by the Law to undergo. As he was severe against Malefactors, so this Somer as indulgent towards Painters, to the Art of whom he naturally bore a great Affection, and which had in all Ages indeed, wherein Barbarism did not prevail, been much prized; so that the former *Roman* Laws gave to men of this Profession Immunity from all Services. But their Privileges he so enlarged now by a Constitution directed to *Cibilo* the Proconsul of *Africa*, That no fewer than nine several Immunities he conferred on them, whereof the first freed them from the *Capitatio*, or Paying for the Heads both of themselves, their Wives, and Children. And whereas in the ordinary *Census* or Tax, Lords were wont to pay for their Slaves, but especially for such as were Barbarians, or not born within the *Roman* Pale; he also discharges Painters of that Burthen, as to this particular.

113. Moreover for such Pictures as they made themselves, though they trafficked with them, he would not have them pay the *Lustralis Collatio* or Imposition on Merchandize, as they were obliged for what they bought to sell again. And whereas there were certain *Pergulae* or Shops belonging to the Publick, where Wares were exposed to sale, and Professors of the Liberal Arts were wont also to teach for Reward, (till *Theodosius* the Younger took away the Custom, that the Publick Professors in the Capitol might have more Encouragement) he ordains, That Painters should have the use of them Rent-free. Neither will he have them obnoxious to the *Metatus*, or harbouring any Souldiers or others against their will, which Privilege was also allowed to Physicians and Professors; but he also exempts them from the Jurisdiction of the *Pedanei Judices*, or inferiour Judges, thereby granting Authority over them onely to the Governours of Provinces or *Vicars*, which Immunity is singular, and not to be found granted to any other sort of men. In like manner was it not indulged to others, to remove and change their Habitations when, and as oft as they pleased; which yet he permits his Painters to do. He also discharges them from Services by Horses and otherwise. And in the last place he permits not the Judges to constrain them to draw the Pictures of the Emperours themselves without Wages or Reward: From which we may learn, that the Governours of Provinces were wont unjustly to exact, as

L. 1. ad legem
Corneliam de
Sicariis, Cod.
Th. l. 9. tit. 14.
C. l. 8. Cod.
Just. l. 1. tit.
Canonizata
etiam est de
panis, dist. 1.L. 2. de Infanti-
bus expositis,
Cod. Just.L. 1. de his qui
latrones, &c.
Cod. Th. l. 9. tit.
28.L. ult. de Ex-
cusationibus
Artificum,
Cod. Th. l. 13.
tit. 4. Absq. a
Cod. Just.

Sect. 2.

other services for nothing, so this also of painting the Emperors, when their Pictures were to be placed somewhere in publick, or given to the Inhabitants of some City or Town. But this Edict concerns the *Africans*, who otherwise were also very ingenious; and particularly in Architecture: And it has this limitation, that these Painters were to be of ingenuous or free condition; otherwise, if Slaves, they should not enjoy any of these Immunities; and this was in conformity to the ancient Customs of *Rome*; which at first forbid any of servile condition to exercise this Art, though afterwards they intruded into it. "But, as much as any other, is that part of this Constitution remarkable, which inflicts no lesser punishment on the Infringer of these Privileges than what belonged to *Sacrilege*, or violation of the Laws. So severe he was in this particular, out of a peculiar Inclination he had to Painting; wherein, as those affirm, who wrote his life, he himself was very skillful, as well as in writing a very Good Hand, and to these he added the Art of Embossing, in which also he was very well seen. "Another Law he Enacted this year whereby he allowed five years time to prosecute a man that had stoln his Neighbours Wife, but no longer; left Mariages well settled, to the content of both Parties, should be disturbed, or Children born of such Mariages so well succeeding, should be injured. By the last Law extant in the Code, and bearing his Name this year from *Triers* (where he was now returned from *Robur*, whence the former Edict was dated) he signifies That he had formerly in more general words given order, that all Judges whatsoever when they gave Sentence, should read it out of a Writing; to which he now further adds, that if the Sentence was not so reduced into Writing, it should not deserve that Name, neither should there be any need to appeal from it. This was agreeable to what the *Civil Law of Rome* had formerly determined in this matter; though there was this Difference as to Judges; that the *Clarissimi* and *Spectabiles* were bound to read their Sentences, themselves; but the *Illustres*, as the *Præfetti Prætorio*, might have them read by one of their Officers.

He allows but five years to prosecute him that had stoln his Neighbours Wife.

Valens takes care for keeping Gold within the Empire.

After the third Consulship of Gratian and Equitius.

Valentinian goes into Illyricum.

Yet punishes not the great Offenders.

114. *Valens* all this year made his Abode at *Antioch*, where he took care for preserving Gold, and its value within the Empire; "by forbidding that any of that metal should be given to the Barbarous Nations in exchange for Merchandize; and by prohibiting any Coin to be made of that which private Persons brought into the Mint. If a Judge to whom discovery was made did not punish a Merchant so offending, he subjects him by that Law to Animadversion himself; and so great an esteem was there of Gold in this Age, that not only he forbids it to be alienated to *Barbarians*; but what they had of it already, by some cunning device he would have got out of their Hands. But after this manner passed the two Brothers this year; and entred upon the following or the CCC LXXV of our Lord, which in some Books hath no *Consuls* assigned, but only marked thus: After the third Consulship of Gratian Augustus, and of Equitius; but in others, *Pontius Paulinus* is noted, though alone, to have born this Office. The Spring being now well advanced, *Valentinian* removed from *Triers*, and hasted into *Illyricum*, which, the foregoing year, had been wasted by the *Sarmatae* and *Quadi*. In his way he met with Ambassadors from the former, who casting themselves down at his Feet, desired he would put a favourable construction upon all he had heard concerning those that sent them; for he should find them guilty of no such crimes as were laid to their charge. This they often repeated; and his Answer was, that in that place he would determine nothing, but judge as he found when he came, into the Country which was said to have been injured by them. Being come to *Carnuntum*, or *Carnuntum*, on old decayed Town of *Illyricum*, but conveniently seated for defence of the Country, he took care for the effectual preservation of the Borders; but when it was expected that, as a severe Prince, he would animadvert upon those Governors, by the negligence or treachery of whom the Provinces had been exposed to the violence of the Barbarians; therein he utterly frustrated the expectation of the people, neither made any Inquiry into the death of *Gabinus* the King, nor other most considerable misdemeanours; his humour inclining him to rigidity against inferiour Persons, but towards these of high condition to so much easiness, that he would scarcely give them an angry word. *Probus* was the only man he pursued with hatred, whom he never ceased to tax and threaten after he saw him, and that for very plain and urgent Reasons. For this man, having arrived at the *Præfectship*, and continued long time in his Office, (as by the many Laws of several years directed to him is most evident, besides the testimony of History) consulted not the Dignity of his Place, nor the Nobility of his House, but acted more ac-

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L. 1. de Rapt. Virginum & viduarum Co. Th. lib. 8. tit. 24. Abest à Cod. Jul. una cum cæteris Legibus hujus tit.

L. 1. de Sententiis ex p. culo recitatis. Cod. Th. lib. 54. tit. 17. ult. Cod. Jul. cod. Tit.

L. 2. de Commodis Cod. Jul. lib. 4. tit. 5. L. 8. de falsa moneta. Cod. Th. lib. 9. tit. 21.

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Post Con

Gratiani

A. 111.

Equitii

U. C.

Sect. 2. according to what his own appetite and the flatteries of these about him suggested, than the principles of moderation could suffer.

Probus the
Prefect very
much to
blame.

Clamours out
of Epirus, a-
gainst him; as
well as Panno-
nia.

115. Perceiving the Emperor to be very much inclined to the getting of money, he did not, as often other conscientious Ministers, divert him from such courses as he was bent to pursue; but followed and humoured him in his way, how pernicious soever; whereby came it to pass that both Rich and Poor were often most miserably oppressed, and turned out of all they had. So great were the publick Burthens, and the Tributes increased to so unsufferable a proportion, that for fear of undergoing the extremity of punishment for what they were not able to perform, many persons of good Quality fled their Countries, and others were perpetually kept in Prison, from which they were freed by offering violence to themselves, their pressure and desperation were so great, while *Valentinian*, greedy of gain, gave no great heed to Accusations of that Nature, not considering or imagining them to be of near so great importance as indeed they were, and too late he found it. But besides, for what the *Pannonians* had suffered, clamours were now made out of *Epirus* upon this occasion. It had been an ancient custom during the Commonwealth, for the *Provincials*, by their publick Messengers, to praise and extoll those in the Senate, by whom they had been governed; which custom first had its rise from the *Greeks*, who were wont to flatter their Magistrates. Afterwards the Senate gave no heed to, but discouraged such formal and forced commendations; and in the time of *Nero* a *Senatusconsultum* was made, forbidding the Governours of Provinces to propose any such matter in the publick Councils of their Districts, and all Persons to undertake such messages. Yet was the custom renewed, as is evident from several Authors; and not only did the *Provincials* of their own accord, give this Testimony, concerning their Governours; but by this time it was come to that pass, that they were of course constrained to do it. In this number were the People of *Epirus*, and they compelled one *Iphicles*, a Philosopher, to undertake the message, who being a Courageous man, when the Emperor took notice of him, and demanded whether his Country-men thought well of their *Prefect*, he answered him in *Greek*, that they commended him, but sore against their Wills. With this Answer *Valentinian* was put into disorder, and began to search narrowly into his Actions; and inquiring after the Persons of Quality of that Province, when he heard that one was hang'd, another was fled beyond Sea, another had made away himself, and a fourth had been tortured to death, he fell into a mighty rage, being exasperated by the suggestions of *Leo*, the *Magister Officiorum*, who gaped after his place; but had he come to be *Prefect*, would so have demeaned himself, that when compared with his, the Government of *Probus* would have been extolled to the skies. However, this is that great and famous *Probus* who had Lands throughout the Roman Provinces; who by his great gifts and Interest procured the greatest Employments, and gaped as a Fish out of the Water, when he was not swimming in the Current of some Prefectship, as *Ammianus* speaks of him. Indeed he bore so many Offices that he may seem never to have been without some Command or Magistracy. For he was first *Proconsul* of *Africa* in the Consulship of *Datianus* and *Cerialis*. After that, four times *Prefectus Prætorio*, and last of all *Consul* with *Gratian*, A. D. CCCLXXI. He was the Son of *Calius Probinus*, the Grandson of *Petrinius Probianus*, who had both been Consuls, and from his Grandfather had the name of *Sextus Petronius Probus*.

116. In reference to the Complaints of the People of *Epirus*, there are two Laws still extant; which, though they be assigned, according to their Date, to the preceding year in the Chronology, yet are rationally thought by *Gothofred* to have been occasioned by these very Grievances and Complaints. They are both directed to *Zosimus* the *Prefident* of New *Epirus*, in which Office he had succeeded *Paulinus*, and said to have been delivered at *Apollonia*, a City of that Country, in which was an excellent breed of Horses. The first of these Laws signifies to the said *Zosimus*, "That *Valentinian* had sent a general Edict throughout the Provinces, that only one *Solidus* should be demanded by those they called *Stratores* for the trial and approbation of an Horse; and that the *Provincials* should observe no other than one certain Shape, Stature and Age in such as they were bound to find for publick service. For we must know, that, as the *Romans* in those days called any one by the name of *Strator* who saddled the Horse, and assisted his Master in mounting him; so of these sorts of *Grooms*, there was in the Palace of the Emperour a certain *Schole* or Company, all young men, over whom was set the *Tribunus Stabuli*; yet under the Disposition of the *Magister Officiorum*. It being presumed, that by reason

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Vid. Val. in Annot. ad Amm. lib. 30. p. 4-4.

lib. 27.

Vide Val. in locis.

L. unic. de Stratorib. Cod. Th. lib. 2. tit. 31. L. unic. Cod. Just. lib. 11.

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Valentinian
endeavours to
reform Abuses
committed by
the *Stratores*.

of their Employment they had skill in Horses, from amongst them were constantly the fittest Persons chosen out, and sent into the Provinces, to try and approve such as were found by the Subject by way of Tribute; and as in respect of their Employment abroad, they were joyned in Reputation with *Domestick Protectors*, the *Agentes* in *Rebus* and others; so often did they commit Extravagancies and burthen the People; especially if the Superior Officers connived at them, as probably did *Probus* the *Praefect*. Therefore for Reformation of this Abuse *Valentinian* writes to *Zosimus*, who being nearer at hand, as having his Residence at *Apolonia*, was capable both to know and correct it; which he enjoyns him, under pain of his Office being fined for every such Neglect an hundred pounds of Silver. Amongst other Complaints put up by the *Epirotes*, this also it seems was alleged, that the *Praefectiani*, or Apparitors of the *Praefectus Praetorio*, did grievously harasse the Country by their Exactions and greediness of Gain, for so *Valentinian* in another Edict tells this same *Zosimus*, though by Imperial Authority all such Oppression had been strictly forbidden. For, they depending upon the Highest Dignity next the Emperour, and not subject to the Ordinary Governours of Provinces, in Collecting Tributes, and otherwise, made Use of their power to terrify the poor People, for which Reason they had formerly been forbidden to have any thing to do in the raising of Tributes. Now he expressly Commands, that none of them be permitted to Execute the Office of *Exactor*, neither have the Charge of the publick *Granaries*, lest they should imbezel the Corn or other Provisions, which it would be difficult to Recover out of their Hands; nor have as much as the Employment of a *Curiosus* or *Stationary*, who had Care of the *Cursus Publicus*, and was wont to discover Criminal Persons to the Judges. If any should disobey this Order, he wills him to be put down to the Employment of *Susceptor* (which was inferior to his Quality, as belonging to the Officers of the ordinary Judges of Provinces) and that his Name be transmitted to his own Person.

Faustinus
strangely put
to Death.

Valentinian
invades the
Country of
the *Quadi*.

117. But to prosecute our Story; *Valentinian* lying at *Carnutum* three Months together in the Summertime, viz. *June*, *July*, and *August*, made preparation of all Necessaries, if occasion should serve, for Chastising the *Quadi*, who had caused very great disturbances in those Quarters. There in the presence and sight of *Probus*, *Faustinus* the Sisters Son of *Juventius* the *Praefectus Praetorio* of *Gall*, after Torture, perished by the hands of the Hangman, having been accused of killing an Ass for the Exercise of some secret Arts, though he denied he had any such Intention; and it was further laid to his Charge, that when one *Nigrinus* in a jesting manner desired Him to make him a *Notary*, he should laugh, and bid him first make him Emperour, if he would be so preferred; but this Drolling cost both of them their Lives, and was the Destruction of more besides them. Now was *Merobaudes* with a Party of Foot, and with him *Sebastiana Comes* sent to waste the Borders of the Enemy; and *Valentinian* departed with Speed to a place called *Acincum*, whence passing over his Men on a Bridg of Boates, he Invaded the Territories of the *Quadi* in another quarter. They hearing of his coming, from the Mountains observed his Motions; and when he appeared, fled into the remoter parts of the Country, with their Wives and Children; where when they found themselves also Attacqued by *Merobaudes* and his Party, they were amazed, and more easily overpowered; of whom many being killed, and their Houses burnt, the Emperour returned in safety with all his Army. He staid at *Acincum* till the year was almost spent, desirous to find out some convenient place in those Frozen Tracts, wherein to Winter; but could light of none so fit as *Sabaria*, although that too was far from convenient. Passing therefore on by the Rivers side which he fortified all along as he saw need to require, with Castles and Garrisons, he came to *Bregetio*, where he was admonished of his approaching Fate, by several Signes, as our Writer gathereth. For, a few days before, Blazing Stars appeared, and at *Sirmium*, the Palace, Court-house and Forum were all struck with Thunder; while he continued at *Sabaria* an Owle peached upon the top of his Bath, and there making an unpleasing noise, could not be driven away by all the Stones and Arrowes the multitude could cast. Being to march from that place, he resolved to pass out at the same Gate he came in, as thereby to signify that he should return back into *Gall*, but the Gate having been neglected a long time, was now choked up, and by no means could the Port-Cullis be raised, though there was all endeavour possible used; so that the time being much spent, he was forc'd to take his way through another Gate. The night before he died, he

thought

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*Law 1. Ne Praefectiani &c.
Cod. Th. lib.
12. tit. 15. l.
2. Cod. Just. de
Apparitorib.
Praefect Praet.
hinc interpolata est.*

Sec. 2. thought he saw his Wife sit by him in a sorrowful Posture, in an ill Habit, and with her Hair hanging upon her Shoulders, which *Ammianus* believes to have been his Fortune, or *Genius*, now ready in that rueful manner to depart. When in the morning he came out with a sad and dejected Countenance to mount, the Horse would not admit him, but reared; and while his *Strator miles* as *Marcellinus* calls him, struggled to put him into his Saddle, against his Will his Hand gave him a Blow, which thereupon he commanded to be Cut off. And the Innocent Young Man had perished, but that *Cerealis* the *Tribunus Stabuli* with danger of his own safety, deferred the Execution.

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They send
their Amba-
sadors and
beg Peace.

To whom gi-
ving Audi-
ence, he falls
into a Rage
and Fit.

Of which he
dies.

118. After this came the Ambassadors of the *Quadi*, and with all Signes of Humility, begged pardon for past Offences, which the sooner to obtain, they offered a Supply of Soldiers and other things, whereof it was convenient enough for the Emperor to accept: For he was not sufficiently furnished with Provisions, neither would the Season of the Year permit that he should attempt any thing more against them at this time; and therefore, it being resolved that they should be heard, they were admitted into the Consistory. There, while they stood with Body and Mind both dejected, and were commanded to declare what they had to say, they made the usual Excuses, and confirmed them by Oath, that what of late happened, was not by any Designe or common Consent of the best of their Nation, but committed by a Ravenous sort of Borderers living upon the River, whom they affirmed to have been provoked by building the Fort we lately spoke of, contrary to all Justice and the Roman Interest. With this their Discourse, *Valentinian* was enraged above measure, and with a great noise upbraided their whole Nation as ingrateful. Being a little pacified, he sunk down, as if he had been struck from Heaven, and seemed deprived of Life and Voice altogether: his Blood stopped, and he was seized with cold Sweat, which those about him perceiving, that he might not die in a Croud, conveyed him into his Chamber. There, being laid on his Bed, though drawing on, he had his Understanding perfect, and knew all that were with him, whom they of his Chamber had importuned to come in, lest it should be imagined that he was made away. The heat he felt inwardly was so great, that a Vein necessarily was to be opened, (as our Historian describes his Disease) but no Physitian could be found; he having dispatched them all away, to take care of the Army which was now seized with the Plague. At last they light upon one, who pricked him several times, but could not make him bleed, his moisture being either consumed by the violence of his Fever, or his Veins dried up by the coldness of the Climate where he Resided. Being sufficiently sensible that nothing but Death was to be expected, he would have spoken and given order in some Matters; but was hindered by Convulsions which shewed themselves in a most violent Hickough, and various Contorsions of his Limbs; so that, fully overcome by the Fury of his Distemper, which betrayed its Malignity by the Blew Spots wherewith it bespred his Skin, after long struggling he breathed out his Last, in the five and fiftieth year of his Age and of his Reign the twelfth, which to compleat he wanted an hundred days.

119. Such is the Account which *Ammianus* gives us of his passage out of this World, according to the Printed Copy of his History now most in Use, though the Text seems neither well to agree with it self, nor with other Writers who speak of the same Subject. For they generally say that he died Bleeding, or rather of Bleeding, and some, by voiding it from the Stomach, and others out of the Lungs; so that instead of *stopping of the Blood*, in *Ammianus*, is rather to be read *Blood suddenly gushing forth*. In such Malignant Fevers as the Spots betrayed His to be (and probably as Malignant as the Pestilence wherewith his Army was at this very time afflicted) such Symptomes as these whereof the Historian discourseth, are frequent enough, extravasation of Blood, symptomatical Sweats, Hickough, Convulsions and the like; although *Ammianus*, amongst other sorts of knowledge to which he affectedly pretends in his Book, seems little to have understood that of Physick. And yet less reason had a far later Author than he to pretend to it, who speaking of his End, saith he died of a sudden Effusion of Blood, which he makes the same Disease with an Apoplexy; and in this Apoplexy, he adds, that though he lost his Voice, yet he Expired in his perfect Sense or Understanding. He further writes that most Authors affirmed him to have Contracted this Disease by his great Intemperance in Diet, and yet it is commonly reported that his Veins were opened by his extraordinary Passion, at the Audience given to the Ambassadors of the *Quadi*; in particular, *Socrates* relates, that he fell into

Pro repente con-
bibito sanguine
legend. con-
pente subito
sanguine.

that

Sect. 2. that Exclamation and Fury, upon seeing the said Ambassadors to be of A.D. 375.
 vile and abject Condition, and that he demanded whether the rest of the *Sarmatæ* were such men as they. They answered that they were; for he had now before him those of highest Quality of that Nation; whereat he was wonderfully incensed and brake out into a vehement Indignation, that the Empire of *Rome* should have so ill luck as to fall into his Hands; during whose Government so beggarly and base a sort of Barbarians could not content themselves to live quietly within their own Bounds; but must Rebel, take Arms, and so boldly make War against it. He strained himself so much in declaiming against them that, as he says, he opened every Vein in his Body, and brake the Arteries asunder, out of which issued so large a Stream of Blood that he died in the Castle commonly called *Bergitium*.

A short Account of his Government.

120. His Fathers Name (as we hinted before) was one *Gratian*, who had the Surname of *Furnarius*, because he was so strong in his Arms that five Souldiers could not wrest a Rope from him. This *Gratian* being for his strength taken notice of, was preferred, and by degrees arose to the Dignity of *Protector* and of *Tribune*, and at last came to be *Comes rei Castrensis* in *Africk*; where being suspected of Rapine he gave over his Employment, and long after had the same Command over the *British* Army. At length being dismissed without any thing laid to his charge, he returned to a Private Life, and was afterward heavily fined by *Constantius*, for that during the Civil War he was said to have entertained *Magentius* in his Passage. *Valentinian* his Son having the advantage of his Interest and Repute in the world, improved it sufficiently by his own Merits till he arrived at the highest Dignity upon Earth; and thereto had the opportunity also of raising his Brother, with whom he reigned in perfect Concord. In his Government the first thing he applied himself to was the care and defence of the Borders, of the Forts and Castles standing upon Rivers, (which he principally attended all his life;) and to protect *Gall* from the *Allemans*, who had grown confident and daring upon the death of *Julian*, the Prince whom alone they feared after the Emperour *Constantius*. And his Felicity was such, that he reinforced the Army with a very great Supply; and such was his success in building new Forts where there was want, as well as repairing the old, that not an Enemy could pass into the *Roman* Pale undiscovered. He made use of industrious Captains, whom he rendered such by his own Industry; and where the Lions Skin was too scant, he enlarged it by that of the Fox. For having assumed his Son *Gratian*, to the Dignity of *Augustus*, to prevent Competition he caused to be made away *Vithigabius* the Son of *Vadomarius* King of the *Allemans*, a young Man in the flower of his Age, who ceased not to animate his Countrymen against the *Romans*; after which he gave them a notable Defeat at *Solicinium*, having narrowly escaped being circumvented, and being destroyed by them. Having thus cautiously managed his matters against them, he turned his Arms against the rage of the furious *Saxons*, who ever rushed on in all desperate Enterprizes without fear or wit; and though by something fraudulent, yet a convenient Stratagem, eased them of that Burthen of Booty which they had pilfered from the Maritime Tracts. In like manner he rescued the *Britans* from the Violence and Inroads of their Enemies, of whom having made such Slaughter, as scarcely any were permitted to escape alive, he settled them in their former Security and Repose. By the same vigorous course of Proceeding he suppressed *Valentine* the *Pannonian* Exile, before it was well known what he was attempting; delivered *Africk* from those Mischiefs wherewith it was suddenly seized, when *Firmus* drew the *Moorish* Nations to revolt; and had done the same by *Illyricum*, if he had not been prevented by death from perfecting what he was in a fair way to accomplish. In conclusion it may be said of him, That though he did great things by his Captains, yet many things he did himself, that he was of a quick Wit; and by his Experience in Military matters fit to manage the greatest Concernments of War, which would have more appeared, could he have taken *Macrianus* King of the *Allemans*, as with great industry he endeavoured to do, after he had escaped the hand of the *Burgundians*, (whom he had stirred up against that People;) which with great sorrow he understood. This is the summary Account *Amianus* gives us of his Actions, to which he subjoins a Character less necessary than the other; for from the general Carriage of this Prince, such as we have related it, he draws the Character; but in the summary Account of his Actions he gives us hints of such things as he had not described formerly at large.

His Vices.

121. For his Vices; although he counterfeited a shew of Clemency, yet was he cruel by his very nature, delighting in Inquisitions after Offences, condemning many to

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to death upon slight occasions, and never being known to have saved any once condemned, contrary to all Example even amongst the severest Princes. He was taxed for Covetousness; as to which yet some endeavoured to excuse him, as prompted to some Actions harsh and violent, by the great Loss and Charge sustained by the Empire in the Wars against the *Persians*, whereby the Treasury had been much exhausted. This made him both justly and unjustly fly upon the Fortunes of his Subjects, and seize their Estates into his hands right or wrong; in like manner as *Aurelian* is said to have done, to recruit the publick Coffers, which had been drained dry by *Galienus*, and the Calamities of his time. He was envious above measure, hating all that were Eminent for Learning, Riches, Nobility, Valour, and Gayety in Apparel; as *Hadrian* his Predecessor is said to have done. Against Cowards he would most bitterly inveigh, and yet shew too much fear and dejectedness himself upon slight occasions; which Humour being observed by *Remigius* the *Magister Officiorum*, when he perceived him disturbed and angry for trivial things, he was wont to pretend Intelligence from the Borders signifying that the Barbarians were up in Arms, whereat he would grow as cool, milde, and serene as ever was *Antoninus Pius*. When he made choice of Judges, he never wittingly promoted any cruel or ill-principled men; but when it so happened, he boasted of them as so many *Icyrgus* and *Cassii*, termed them the Pillars of Justice, and by Letters stirred them up to the greatest severity against the smallest Offenders; but never relieved any, though overpowered by never so unjust a Sentence: Whereas (saith our Author) the very end of Government, as wise men have accounted it, is the Profit and Safety of obedient Subjects.

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His Virtues.

122. These were his Vices according to the Character *Ammianus* giveth of him, who also alloweth him large Commendations for such Virtues, as (if all had been answerable) would have rendered him not inferiour to *Trajan* nor *Marcus Aurelius* himself. These were great Indulgence, to the Provinces, both in easing them as much as in him lay of the Burthen of Tributes, and providing for their Safety by the building of Towns, and raising of Forts and Castles in places, where was danger of Invasions. A great Exactor he was of Military Discipline, and as to that herein onely he erred, that he was excessively severe to common Souldiers, but indulgent to great Officers, against whom he would not hear any Complaints; and hence proceeded the Commotions both of *Britain*, *Africk*, and *Illyricum*. As to his Body he was exemplarily chaste, and by his own Example propagated that Virtue both in his Court, and where ever else he came, there being no Complaints of Rapes, or any other Misdemeanors in that kind. To his Kindred he was not indulgent beyond the publick Interest, either not at all preferring them, or if he did, to inconsiderable Places, *Valens* his Brother excepted, whom in a dangerous posture of Affairs he raised to the highest Dignity. He was even scrupulous in bestowing the greatest Offices; neither in his time did any man belonging to Money govern a Province, nor were any of these Employments sold except it was at the beginning of his Reign, when many extravagant things were wont to be done, out of hope that a new promoted Prince was either too busie to take notice, or else that he was generous, as such persons called him, that is, careless and negligent of his Business. As to Military matters he was very sagacious; for having been accustomed to hardship, he knew when and where to direct his Souldiers, in ordering of whom he was very exact. He wrote very handsomly, and could both paint and emboss very well; so that we need not wonder he was so indulgent to Artists of this Profession, as by an Edict he made not long before his Death we understand he was. He was very ingenious in finding out new sorts of Arms, had an excellent Memory, and Readiness of Speech nigh to Eloquence; a great Lover of Neatness, and in his Feasts and Entertainments loved to be splendid, but not profuse. And *Ammianus* placeth this as the last, though not the least of his Commendations, that in the diversity of Religions and Persuasions he stood as betwixt both Extremes, neither molesting those of the one side nor the other, nor by any terrible Edicts forcing those of other Persuasions to what he esteemed best, but left all Parties free as he found them. Which is to be dered in another place.

123. With *Ammianus* other Historians agree in the main of his Commendations. *Vitor* writes, that he was of a comely Countenance, subtile Wit, grave Deportment, and most elegant Speech, though of few words; severe by nature, and vehement in his Severity; yet an Enemy to Vice, and especially Covetousness, upon which he animadverted with all rigidity, resembling *Adrian* in all these things. He adds, that he was mindful of Ancient Nobility, ingenious in the Invention of new Arms, and

Sect. 2. and in making of Statues; knew how to serve himself of Time, Place, and Speech: A.D. 375.
 And in a word, had he escaped the hands of a Company of unfaithful persons, to whom he delivered up his Understanding, to be governed as to faithful Councillors and wise; and had he been served by Persons of Fidelity and Learning, he had been without doubt a complete and excellent Prince. In conclusion, all agree that he was of a present Countenance and proportionable Symmetry of his Limbs composed unto Majesty. He died in the Fifty fifth year of his Age, having reigned twelve years wanting an hundred days, on the fifteenth before the Calends of *December*, in the third year of the two hundred eighty and eighth Olympiad, of the City the MCXXVIII, the third Indiction, in the CCCLXXV year of our Lord, *Paulinus* being Consul, as some have written; though *S. Hierom* tells us, that for this year no Consuls were created, because of the Irruption of the *Sarmatæ* into *Pannonia* in the preceding. And therefore (as we formerly said) in the *Fasti* it is rescribed, *After the third Consulship of Gratian and of Equitius.*

SECT. III.

*From the Death of Valentinian the First, to the Murder of his Eldest Son Gratian.
 The space of Seven Years and Eight Moneths.*

Valentinian's
Illuc.

I. **V**ALENTINIAN left two Sons, *Gratian* and *Valentinian*; with three Daughters, *Justa*, *Grata*, and *Galla*. *Gratian* he had by his first Wife *Severa*, and the rest of his Children by *Justina*, a Lady he married (as *Socrates* writes) while his former was living, upon this occasion: *Justus* her Father, who in the Reign of *Constantius* for a good while governed *Picenum*, dream'd that his Right Side was delivered of the Imperial Robe, and this Dream he told to so many, that at length it came to that Jealous Emperours Ears; who conjecturing that one born of him might arrive, or aim at the Sovereignty, procured him to be made away. *Justina* thus bereaved of her Father continued a Virgin, and in time came to be acquainted with the Empress *Severa*, and with her often conversed, and grew so familiar, that she permitted her to use the same Bath with her self, by occasion whereof *Severa* saw and admired her Beauty to such a degree, that she could not forbear telling her Husband of it; affirming, that in that sort of Perfection she excelled all other Women. That sunk deep into the Heart of the Emperour, which seemed onely to pierce his Ear; and he devised how he might compass this beautiful *Justina* for his Wife, without divorcing *Severa* the Mother of *Gratian*, whom he had assumed to a Participation of the Imperial Dignity but a little before. To this purpose he made a Law, That all that were so pleased might have two Wives apiece, and this he caused to be proclaimed throughout every City; which done, he took *Justina* for a second Wife, and by her had *Valentinian* and his three Daughters, whereof two died Virgins, and *Galla* was after married to *Theodosius* the Great. But this is justly suspected for a mere Tale, nay there's little doubt of its Falshood, that Law appearing no where, and the Testimony of History being so clear against it, that it affirms him exceeding chaste; neither would other Writers have omitted so strange and extraordinary a Passage. But this may suffice, that this *Justina* was no Virgin when he married her, but the Widow of *Magnentius* the Tyrant; if *Zosimus* may be believed.

A strange
Tale of his
making a Law
for, and ha-
ving two
Wives toge-
ther.

2. The Emperours Body being duly prepared to be sent to *Constantinople*, and buried amongst the *Augusti*, Trouble seized on all mens Spirits, in expectation what so great an Accident might produce; and the rather because the *Gallicæ* Souldiers were suspected, as those that never had kept their Fidelity to the deceased Prince, but were ever ready to raise Commotions upon such occasions. The Officers therefore in such straits proceeding in a wary course, sent for *Merobaudes* their Commander in the Emperours Name, and as yet alive, to come to them; who either suspecting the matter of himself, or lifting it out of the Messenger, pretended to his Souldiers, that he had Orders to lead them to the *Rhine*, there to oppose the Incur-

sions

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Valentinian
his Son declar-
ed Emperor
by the Officers
of the Army.

sions of the Barbarians, and, according to his Instructions, he sent out of the way *Sebastian*, a man by his own nature quiet and milde enough, but in great favour with the Military men, and thereupon much to be feared. When he came to Court it was resolved in Council, that *Valentinian* the Son of the Deceased, a Child of four years old, (if not rather nine) and at the distance of an hundred miles, living with his Mother *Justina* in a Village called *Murocineta*, should be made Emperour. Accordingly *Cerealis*, the Boy's Uncle by the Mothers side, was sent to fetch him, who bringing him in a Litter into the Camp, he was there legally declared for Emperour (so saith *Ammianus*) on the sixth day after his Fathers Death, and named *Augustus*, in the solemn manner. All men concluded that *Gratian* would take it heinously (as well he might) that any one should be advanced to the Imperial Dignity without his Consent or Knowledge; but they lived very peaceably and lovingly together, and in this matter he carried himself both like a prudent and good-natur'd person, nay rather educated this his young Brother with too much fondness and respect.

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375.

3. In the mean time a great Tempest began to gather to an head in the East, which occasioning the Death of *Valens* was foretold by many Prodigies, as our Author believeth. Amongst them (if any) is remarkable the Oracle found written in a four-square Stone in the Walls of *Chalcedon*, which were pulled down (as he saith) for the building of a Bath at *Constantinople*; as others write, because the *Chalcedonians* had reviled *Valens* during the Commotions raised by *Procopius*; wherein was in Greek Verse signified, that when those Stones should be so imployed, a stout People through the River *Danubius*, the *Scythian* Countreys and *Myssa*, should invade *Thrace*. Now *Socrates* hints, that these Walls were broken down several years before, by Command of *Valens*, who sware, That if he overcame *Procopius* the Tyrant, he would do it, because the Inhabitants of that City took his part, shut their Gates against himself, and reviled him as he passed by the said Walls, the Stones whereof were indeed carried to the Common Baths of *Constantinople*, called *Constantiane*. Then were found certain Verses (he adds) signifying, That the Walls should be taken to the use of the Baths, at what time great Plenty of Waters was to be seen in the City; and that then infinite Numbers of the Barbarous Nations, invading the *Roman* Dominions, should wonderfully distress the Empire; but in the Conclusion be destroyed themselves. Accordingly not long after, the Conduit made by *Valens* yielded great Plenty of Water to the City, and at the same time several of those Nations took up Arms against the State. Yet such as will trouble their Heads with things of this nature affirm, that the Oracle might be otherwise interpreted, from *Clearchus* the *Præfect* his making a great Pipe from this Conduit into the Forum of *Theodosius*, called *The Plentiful Pipe*, the flocking together of the People, and the Feast held thereupon; but these Circumstances and the Knowledge of this supposed Oracle fell out afterwards. We are further told, that when the Walls of *Chalcedon* were going to be demolished, the Citizens of *Constantinople* made humble suit to the Emperour, that he would not so deface that City; and the like did such *Bithymians*, *Nicomediens*, and *Niceans*, as by chance were at *Constantinople* at the same time: but he remitting nothing of his Choler, took their Suit in very evil part, and that he might (as he alleaged) keep his Oath, commanded both the Wall to be pulled down, and the Foundation filled up with Pebble Stones; whence came it to pass, that a slender and contemptible Structure was afterward raised upon so ancient and substantial a Foundation.

Lib. 4.

A.D. 375

The Huns in-
vade the Em-
pire.Their manner
of living.

4. But the Tempest which fell upon the East was raised by the *Huns*, who out of greediness after Booty invaded the Empire, and raging with great Cruelty and Rapine, pierced at length as far as *Achaia*. This was a fierce and savage People, inhabiting that part of *Scythia* which lay upon the Ocean, beyond the Fens of *Mæotis*. As soon as born they had their Cheeks cut and mangled, to prevent the growing of Hair, and therefore were as Beardless as Eunuchs, and ugly to behold. But their Constitution was firm and robust, as were their Limbs, and their Shoulders so large and fleshed, that they looked rather like two-footed Beasts, or rude and unpolished Images of Men. So hardy were they that they never used Fire, nor dressed any Meat, but lived on the Roots of Herbs, and such Flesh as was chased betwixt their Thighs and the Sides of their Horses. For Houses they never had any, but were as averse to them as to Sepulchres separated from common use; they wandered from place to place through Mountains and Valleys, as from their Infancy accustomed to bear the Incommodities of Cold and Hunger; which had such Influences upon their Fancies, that when they came into other Countries, they would not willingly enter within

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within the Walls of any House, as thinking themselves not safe when shut up and covered. Their Clothes were either Linnen, or the Skins of a sort of Mice stitched together, knowing no distinction of Time or Place, or any Change, so long as they could hang on. They wore a crooked sort of Cap; with Goats Skins they covered their Legs; and their Shoos were without any shape or fashion, which hindered their pace, and rendered them unserviceable on Foot; but on Horse-back they fought nimbly, though in an unseemly posture. Day and night was indifferent to them as to Buying, Selling, Eating, and Drinking; and their Sleep they took up on the Necks of their Horses. As to their Publick Affairs, thereof they consulted in common, having no King, but living in a tumultuary confused manner. They fought in Parties formed like to Wedges. They begun the Battel with an hideous Noise; and as in Onsets they were quick and surprizing, so when put to flight their Retreat was disorderly, and void of all prudence; their Pursuit being also violent, furious, and discomposed, wherein was observed that they never attacked the Camp of their Enemy. Their Missile Weapons were made of Bones joyned together and sharpened very artificially; hand to hand they made use of the Sword, and made it a great part of their business to entangle the Legs of their Adversaries both on Foot and Horse-back. They were never to be trusted in time of Truce, breaking all Laws of Nations, of Peace and War, as the fit and fury would come upon them, for they had no greater sense of Right and Wrong than wilde Beasts; and were of so inconstant a humour, that without any Provocation they would fall out with their Friends, and again be reconciled without any Application made to them. To no ties of Religion or Superstition were they bound. They were greedy of Gold, though they never pierced into the Earth so far as a Plough: For they wandered about as if they fled from an Enemy, without any Habitation, constant Law, Rule, or Order, in their Waggon, where they dwelt with their Wives and Children, whom they therein brought up till time of Puberty; so that none could answer if demanded of him, which was the place of his Conception, Birth, or Education.

A.D.

375.

The *Alani*
their Neigh-
bours.

5. Neighbours to the *Huns* were the *Alani*, who also inhabited *Scythia* beyond *Tanais*, which River separated *Europe* from *Asia*. If we credit *Ammianus*, this People possessed a vast Desert, and from the Mountains had their Name; which by their continual Conquests they communicated to the bordering Nations, as the *Persians* formerly had done; so that those who went under this common Appellation, extended toward the East their Habitations as far as the *Amazons*, and into *Asia* to the River *Ganges*, which taking its course through *India*, pours forth its Streams into the Southern Sea. Like the *Scythian Nomades* they also wandered up and down without Houses or Agriculture, living on raw Flesh and Milk, and carrying their Families in Waggon covered over with the Bark of Trees, and ranged together in a Figure resembling that of a City. They were chiefly addicted to the breeding of Horses, and drove before them great Herds of Cattel. And the Soil they inhabited was very convenient for this sort of Life, abounding with good Pasture, and here and there beset with fruitful Trees. On foot to be seen they accounted ignoble, as being from their Youth accustomed to ride, and being trained up in War were in the management of it more prudent; and thence came it to pass, that the *Persians* being originally *Scythians*, were more skilful in fighting. In other respects they were much like the *Huns*; for generally they were tall and goodly Persons, of a terrible Aspect, their Hair inclining to a Yellow, their Eyes quick; they were swift in Battel because of the Lightness of their Armour; yet were they of a more cultivated and civil Conversation than they. Impatient above all things they were of Rest, taking no pleasure but in Wars and Dangers; insomuch that they esteemed those happy who died in the Field, but such as were extinguished by Old Age or other accidents, they reproached as degenerate and sluggish Persons. Nothing accounted they so glorious as to have killed an Enemy; and they were wont to trap their Horses with the Skins taken off from the Heads of the slain. As for Religion, not a Temple nor Chapel was seen amongst them, as indeed no Roofed House; but a naked Sword after an odd kind of fashion stuck in the Ground they worshipped as *Mars*, and the Protector of the Regions they inhabited. They had a strangeway of foretelling things to come by Rods, on which their Women practised certain secret Inchantments. They knew not what Servitude meant, (yet we read that the ancient *Scythians* had Slaves) all of them being reputed as nobly descended, and in matter of Judicature they made choice of such Judges and Officers as were most Eminent for Ability in War.

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The Huns
fall into the
Territories of
the Alans, and
then upon the
Goths.

6. Into the Territories of these *Alani*, who were called *Tanaites*, and were Neighbours to the *Greuthungi*, did the *Huns* break; they spoiled the Countrey, made great havock of all things; and entering into Alliance with such as remained alive, joyned them to their Body, and with great Confidence and Celerity fell into the Dominions of *Ermenrich* a most Martial King, who for his great Performances was become terrible to the Nations adjoyning, but, struck with Consternation at so strange and unexpected an Attempt, prevented his further trouble by a voluntary death. *Vithimires* being advanced into his place, by the Assistance of some other *Huns* he had hired, made resistance for some time, but after many Losses received was slain in fight. Then *Alathens* and *Safrax*, two valiant and experienc'd Captains, undertook the Guardianship of his Son *Viderich*, who yet being straitned in time, cast off all hopes of Resistance, and warily came down to *Danastus*, a River running through large Champain Countries betwixt *Ister* and *Borysthenes*. This being understood by *Albanarich*, Judge or Magistrate of the *Thervingi*, him against whom *Valens* moved war for having assisted *Procopius*, he resolved to stand upon his Guard, and vigorously to defend himself in case he were invaded, sending out his Scouts to discover the Motions of those Rovers. The *Huns* suspected there was a great Number of Men, and passing by the Scouts, fell upon him all on a sudden, who having lost some of his Souldiers, fled to the Mountains, and afterward passing from the River *Gerasus*, the Country of the *Taifali*, unto *Danubius*, there he raised a Fortification for his own Defence, when he had escaped the *Huns*, who were overcharged with Booty, and thereby rendered incapable of an hasty Pursuit. However, the Report of this strange and sudden Invasion running throughout the other Regions of the *Gothick* Nations, they resolved by seeking out new Seats, to evade the Rage and Fury of so Barbarous an Enemy; and resolving upon *Thrace*, both for that it was a fruitful Countrey, and from the Tracts which these Rovers molested, separated by the large Streams of the River *Ister*, under Conduct of *Alavivus* they seized on the Banks of the *Danube*, and by their Orators humbly besought *Valens* they might be received, promising to live quietly, and to send him Aid upon any occasion.

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375.

The Goths
frighted from
their own
Country re-
solve for
Thrace.

7. The first Rumour of these strange Commotions in the Northern Parts struck all men with Admiration as well as Terror, to hear that so vast Multitudes of Barbarous People should hover about the Banks of *Ister*, driven out of their Seats by greater Barbarians than themselves: And indeed this seemed, as by some later Christians it is held, to be one of the Soundings of the Trumpet to the Dissolution of the Western Empire. Yet some flattering Courtiers took even hence occasion to extoll the good Fortune of the Emperour, who would now be so furnished with Souldiers out of *Thrace*, that he might by that Easment treasure up abundance of Gold, spent before this in the making of new Levies; and their Persuasions were so effectual, that Order was given for Transporting these *Goths* into that Country, who night and day without any intermission came over in such Multitudes, that such as were appointed to survey them could never attain to any certainty of their Number. *Ammianus* compares them to the Troops of *Xerxes*, and the Companies that mustered at *Doriscus*, and affirms them far more noxious than they, in that they brought Ruine to the Empire along with them, and far exceeded the Malignity of the *Persian* Armies, which *Greece* in a manner overcame before she saw. These Swarms of the Northern Barbarous People he further likens to the thick Clouds of burning Coals, which were wont formerly to issue out of the Mountain *Aetna*, and at this very same time intercepted the Light of the Sun; and besides what it belched forth out of its own Bowels, kindled other new and unnatural Fires, by burning all things combustible within the Limits of the adjoyning and obnoxious Countrey. And it so further happened at this very time of danger and most pressing difficulties, when there was greatest need of skilful and prudent Governours, that the Provinces were served by most unworthy men, amongst whom of most Eminence were *Lupicinus* and *Maximus*, he a *Comes* through *Thrace*, and this exercising the Office of a *Dux*; both equally guilty of Rashness and the Ruine of their Countrey through their Covetousness, whereby they several ways irritated this People, till then sufficiently quiet and peaceable. Amongst other dishonourable Practices, when these Multitudes were sorely pinched with want of Provisions, and distressed by Hunger, they got all the Dogs they could together, and exchanged them for so many Men, whom they took for Slaves, and amongst them some of the Sons of the chiefest Persons. However, such was the occasion of the Admission of these Barbarous Nations into the Bowels of the Empire, a thing of so per-

Order is given
by *Valens* for
their Trans-
portation.

They are pro-
voked by *Lu-
picinus* and
Maximus.

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Their Admis-
 sion mischie-
 vous to the
 Empire.

Which hap-
 pened when
Valens the
 fifth time and

the younger
 were Consuls.

The *Greuthun-
 gi*, though
 forbidden,

Take their
 opportunity
 and pass over.

And all agree
 together to
 waste the
 Country and
 defeat *Lupici-
 nus*.

nicious a Consequence, as nothing more; and the Circumstances of their Admission were such, as *Ammianus Marcellinus* delivers them. A most gross act of Imprudence, whether of *Valens* or others, to receive such Multitudes without disarming them. Some Writers say, it was the Emperours Command that they should deliver up their Arms before they came over; but the Officers who had the charge of their Passage never had any regard unto it, being intent upon their own Gain and private Advantages, which they made of the most beautiful Women, the goodliest Boys, and strongest Slaves and Labourers they could chuse. And some were bribed by Linen Clothes and other Presents, to connive at their having their Weapons. Nay, some tell us, that *Valens* his Design was prudent, if it could have been prosecuted, which was, to bestow the Children of both Sexes through divers Provinces of the Empire, to have them as so many Hostages for the Truth and Fidelity of their Parents. This memorable Passage of the *Goths* happened, when *Valens* the fifth time and *Valentinian* the Younger were Consuls, in the CCCLXXVI Year of our Lord, and not in the following Year, as it is erroneously placed in the Chronicle of *S. Hierom*. Their Captains were *Alaricus* and *Fritigern*.

8. These Captains with their Followers being thus received within the *Roman* Pale, not long after *Vithrich* King of the *Greuthungi*, by the Advice of *Alatheus* and *Saphrax* who governed him, accompanied by them and *Farnobius*, came down to the Bank of *Ister*, and by Messengers dispatcht away in all haste besought the Emperour that they might also be received, with the same Courtesy. This for weighty reason was denied them; and when they consulted what to do upon this Repulse, *Athanasius* well remembring how he had affronted *Valens*, by pretending he had sworn never to set Foot on *Roman* Ground, and for that Reason had forced him to come by Boat into the middle of the River to make the Peace, concluding that the Emperour retained still the grudge in his Mind, drew off his Men to a place that was almost inaccessible by reason of Mountains and Woods, and thence expelled the *Sarmatae* who had there seated themselves. In the mean time such of the *Thervingi* as were permitted to pass the River, wandered upon the Coasts, almost starved, by reason of the Cheating tricks practised against them by the *Roman* Officers for Gain, and *Lupicinus* perceiving their just sence and indignation, for fear they should Mutiny, sent a Party of Soldiers to drive them on faster. The *Greuthungi* perceiving this to be a convenient time, when the Soldiers were thus imployed, and that the Vessels wont to ply to and again to hinder their Passage, were removed, took the opportunity, and got over by Boats patched together as well as they could out of hand, and late down at a good distance from *Fritigern*, who being a Cunning Man, that he might not give any Cause of suspicion to the *Romans*, and yet not want the Assistance of the other Kings upon occasion, marched slowly towards *Marcianople*. There fell out a mischance which added Oyle to the former Flame. *Lupicinus* having invited *Alaricus* and *Fritigern* to Dinner; lest the ordinary sort of Barbarians should press upon him for Victuals, he ordered a Guard of Soldiers to keep them off from the Gates of the Town, whither they desired they might be admitted as Friends, to provide them Necessaries. Being thus Repulsed, they came to outrageous words with the Inhabitants, and from words to Blowes, so that the *Goths* fell upon the Party that was appointed to watch the Gates, killed them, and stripped them when slain. *Lupicinus* herewith acquainted, in the midst of their merriment, caused all the Attendants which waited on the two Guests to be straightway knocked on the Head; the Report whereof flying to those without the Walls, drove them into a Rage, as concluding that their Kings should be detained Prisoners. This *Fritigern* earnestly pressing, and fearing indeed that he should be detained as an Hostage, alleaged it was necessary he should go, to quiet their mindes and allay their Fury. Both he and his Companion got away, the *Roman* General being now besotted with Wine, and were received with great Joy, as utterly unexpected; and to improve the Advantage thence obtained, they fell into Consultation how they might best raise a War and Revenge themselves.

9. The whole Nation of the *Thervingi* upon information of what had happened, were vehemently bent the same way, and with Banners displayed, fell presently upon the Countries, which they Pillaged and wasted with Fire and Sword. *Lupicinus* in a Tumultuary manner marched out, to withstand so dangerous a beginning, but with so ill Success, that Incamping himself at twelve Miles distance from the City, he was by a sudden Attacque of the Enemy defeated, and forced to flye for his

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375.

Vide *Valens*
 in *Ann. lib.*
 31. p. 442.

A.D.

376.

Sect. 3. his Life, most of his Men being Cut off together with their Tribunes, which Accident, carried this greater mischief along with it, that the Barbarians were hereby furnished with *Roman* Armes, and made now havock of all things without Controll. When *Valens* had notice of these dangerous Motions of the *Goths*, he was much distracted in his Thoughts what Course to take. He sent away with speed *Victor* the *Magister Equitum*, to Compose Matters as he could with the *Persians*, about *Armenia*. Resolving then to quit *Antioch*, where he had made his Abode about a year, and go to *Constantinople* to be nearer at Hand; he sent before, two of his Captains, *Profuturus* and *Trajan*, Men more Ambitious than able for Business, who coming to the place, whereas the Case required, that they should by way of Stratagem and Surprize, Cut off and diminish so great Multitudes as now filled both the Mountains and Champion; they opposed against them the Legions drawn out of *Armenia*, which indeed were Valiant enough, but utterly unable to grapple with such vast numbers of Men. They forced the Enemy beyond the Mountain *Hemus*, and there seizing on the Straits and cragged Rocks, resolved to shut them up, and destroy them by Famine; or at least so long to keep them pent up, till *Frigeride* could Arrive with the *Pannonian* and *Transilpine* Auxiliaries, which, at the request of *Valens*, *Gratian* ordered to their Assistance. And *Richomer*, who at that time was his *Comes Domesticorum*, he commanded to hasten out of *Gall* into *Thrace*, upon the same Errand. But by the Endeavours, as was reported, of *Merobaudes*, *Richomer* his Troops forsook him for the most part, that the Borders of *Gall* might not be destitute and exposed; so that he joyned indeed, with *Profuturus* and *Trajan*, but to little Effect, for *Frigeride* was seized with the Gout; or else, as his Ill-willers talked, Counterfeited himself sick, and staid behind.

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370.

10. Such were the Disappointments, as to Relief out of the *West*; and for the *Eastern* Parts, we must not forget, that at the very first when the Rumour of the motions of the *Thervingi*, came to the Eares of *Valens*, he ordered a Party of *Goths* which under Conduct of *Sueridus* and *Colias* had been long before received and appointed to Quarter about *Adrianople*, speedily to remove toward the *Hellepont*. But they considering what would make most for their Interest, required Provisions for their Journey, and two days Respite, whereat the Magistrate or *Duumvir* of that City was very much moved, as incensed against them for having wasted the Country adjoining, and he stirred up the Common sort so much, together with the *Fabricenses* or those belonging to the Forges, of which, there was there a great Multitude, that they all gathered together, threatening to destroy them upon Refusal to depart. The *Goths* at first were amazed, and stirred not, till provoked both by opprobrious Language and the Missile Weapons; they then fell upon them, killed many, put the rest to Flight, and in the *Roman* Habit (having stripped the slain) went and joyned themselves with *Fritigern*, and with him laid Siege to the City. But *Fritigern*, knowing his People unexperienced as to Sieges, perswaded them to remove (alleaging that he had no Quarell with Walls) and to Plunder the wealthy and fruitful Province; for there they should find no Opposition. Leaving a sufficient power to block up the Town, they ranged all over *Thrace*, where they could get most Booty, their numbers being daily increased by those of their Nation, who having been formerly sold by Merchants, or others, for morsels of Bread, now flocked in to them. Many also who had Skill in Mines, of which there were plenty in *Thrace*, accompanied them for getting of Gold, not able, or not willing, to bear the usual Impositions, and the *Goths* gladly entertained them for the Discovery of the secret places in the Country whither Men of Wealth had retired. Now, without any difference of Sex or Age, did these Barbarians rage against the Persons, as well as Goods of the miserable Inhabitants; the sucking Children were snatched from the Breasts of their Mothers, the Infants killed, and the Mothers abused, after they had seen their Husbands Butchered before their faces; those of puberty were haled over the dead Bodies of their Parents into Slavery, and the old Men, in vain complaining, that they had already lived too long, were compelled to quit their flaming Houses, and follow with their Hands bound behind them.

Gratiæ causa
dictus.They block
up *Adrianople*.And cruelly
rag'd through-
out *Thrace*.

11. But *Profuturus* and *Trajan* to whom *Richomer* had joyned himself, that it might not be said they would do nothing, moved toward a place called *Salices* near to which, lay a vast Body of the *Goths*, the posture of whom they observed, as they were inclosed with their Waggon, and expected when they would stir, that they might fall upon their Rear, promising themselves much Success in such

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such an Attempt. But the Designe was discovered either by Fugitives or some other way, so that the Barbarians kept their Post, and by Signes gave notice to all their Straglers to return to the Camp; where being Arrived, like so many Wilde Beasts upon the Prey, they raged to be led out against the *Romans*, who well enough perceived the disadvantage they were in, both in respect of their Numbers and the Folly of their Commanders; however, animated by the goodness of their Cause, That Night they passed without Sleep on both Sides, and the Day following came to a Bloody Battel. The Barbarians, having first taken the Oath after their manner, indeavoured to become Masters of the upper Ground; but in this matter the *Romans* were as cunning as they, and so Resolute and Couragious, that Night alone could put an end to the Controversy, in which many of them fell, as overpowered by Numbers. The better sort, as they could, they gathered up and Buried; and all the rest were left to be devoured by Fowles, which then had but too plentiful Fare, as appeared by the Bones they left, with which these Fields were covered a long time after. The *Romans* drew off towards *Marcianople*. The *Goths* for seven days following, kept themselves amongst their Carriages, not daring to look out, which opportunity the other taking, Blocked up another Party of them in the Straits of *Hemus*, where they hoped they might perish with hunger; for on the other side they were closed by the *Ister* and Deserts, within a Country destitute of Necessaries; all Provisions being removed into strong Townes and fenced places, which how to Attacque or become Masters of, they knew them to have neither Skill nor Power. These things thus performed, *Richomeres* went back into *Gall*, to fetch, as was hoped, greater Supplies of Men, for so mighty a work as evidently now was Cut out for them. But this was when *Gratian* the fourth time was *Consul*, together with *Merobaudes*, and *Autumn* now approached, as *Ammianus* tells us in so many words.

A Bloody Battel.

A.D.
376.*Honoratus Am-
mianus eos vo-
cat.*When *Grati-
an* the fourth
time and *Me-
robaudes* were
Consuls.*Hæc Gratiano
quater &
Merobaudes
Consulibus age-
bantur, Anno in
Autumnum
vergente.*The Barbari-
ans of *Scythia*
and *Mæsia*
break also into
Thrace.

12. *Valens* his Eares being perpetually filled with the Noise of Slaughters, Pillagings and Burnings, sent away *Saturninus* with the Horse, to the Relief of *Pro-futurus* and *Trajan*. But at the same time it hapned that all things necessary for Sustenance being consumed, through the Tracts of *Scythia* and *Mæsia*, the Barbarians of those parts also were in great Disorder. Often they endeavoured to break their Bounds, but still by the Resolution of the *Roman* Forces were Repul-sed, till driven by extream Necessity, they allured by promises of vast Booty, a number of *Huns* and *Alans* to joyn with them. *Saturninus* was now at Hand, imploying himself in disposing matters relating to the Garrisons and Stations of these Borders; but perceiving the vast Swarmes of these People could not be di-verted by him and the few he had with him; but that they must be overwhelm-ed, as by a more violent Inundation of Waters, the more they endeavoured to stop the Current, he made a fair Retreat. And now upon Removal of the Sol-diers, a Vent being given, straitway like a mighty Flood, they bore down all be-fore them, and spreading themselves throughout the Coasts of *Thrace*, as far as from *Ister* to *Rhodope* and the Streights; with Rapines, Slaughters, Blood, and Fire, the inflaving of all they thought fit not to dismiss out of their miserable thraldome, and spoyling of all things, they gratified their Ravenous Appetites. In this manner they proceeded as far as a place called *Dibaltum*, where they found *Barzimeres* Tribune of the *Scutarij* encamped with his Legion, together with the *Comuti* and several other Parties of Foot; a Person very well skilled in matters of War. He well enough knowing the Danger he was in, resolved with his Men wedged as close together as could be, to brake through them; and in the Attempt so well behaved himself, that he had escaped, but that, when he was now wearied and disabled any more to maintain the Fight, he was surrounded with Horse, and Cut in pieces, yet not without a great Slaughter first made of the Enemy, which by the vastness of their Numbers was Concealed. Incouraged by this Success, more than they had reason, they went on hunting after *Frigeride*, who by Order of *Gra-tian* was come into *Thrace*, and had taken up a Post near to *Bereæ*. But he who was sufficiently knowing how to avoid dangers and preserve an Army, withdrew himself out of the way into *Illyricum* through Mountainous and Woody places, and in his Retreat was much Elevated by a notable Adventure. He light upon *Farnobius*, one of the Captains of the *Goths*, who then Headed the People called *Taifali* which had joyned themselves also to his Nation, having passed the River, when the *Roman* Guards out of Fear were dispersed, as desirous to Share in the Adventure made now by all these Northern People. Perceiving he could make his Party good if he grapled with these Rovers; he set upon them, killed *Farno-*

They cut off
Barzimeres.*bins*

¹ Sect. 4. *Frigeride kills Farnobius and takes his Tail.* *bius*, and with him had so treated all the rest, but that he was induced to Mercy, by the miserable Cries they made for Quarter. He took them all alive, none escaping, and bestowed them in *Italy*, about *Mutina*, *Regium* and *Parma*, to Till the Grounds. This Nation, as the Historian tells us, was Infamous for *Sodomy*; it being their Custome to abuse Boys that were Arrived at Puberty, who had no way to Redeem themselves from that filthy sort of Slavery, but by killing a Wilde Boar, or else a Bear, with their own Hands; a Service performed to the Publick.

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In the mean time the *Lentenses* a People of the *Allemans* invade also the Empire.

13. In this manner was miserable *Thrace* afflicted, when it grew towards Winter; and about the same time, other Northern Parts of the Empire had their share in the publick Calamity, occasioned by the *Lentenses*, a Nation of the *Allemans* neighbouring to *Rhetia*, which broke the League, and invaded the *Roman* Territories upon this Occasion. There was one of their Countrymen, who being of the Emperours Guard, and having occasion to return home, when several asked him what Newes at Court? Told them, that *Gratian* was sent for by his Uncle *Valens*, to help him to repell those Northern People, which had conspired against the Peace of the Empire; and that speedily he would set forward to the East. They were Joyful Men at the Report, being as greedy of Booty and Spoil, as any of the rest; and in the Month of *February*, when the *Rhine* was Frozen, took the Opportunity, and fell of spoiling the Country, till stopped by the *Petulantes* and *Celle*, who making Head against them, drove them back; not without considerable loss on the *Roman* side. They were forced to Return; but not at all dismayed by this Repulse, they encouraged their Friends and Relations to venture forth another time; and now generally the *German* Nation knowing that the Imperial Forces were drawn into *Illyricum* and that *Gratian* was to follow, rose up from all their Villages, and to the Number of forty thousand, or as some who endeavoured to inhance the Reputation of the Emperour alleaged, to that of seventy, confidently poured themselves into the Neighbouring Province. *Gratian* herewith very much startled, recalled the Troops he had sent toward *Pannonia*, and mustering such as were in a Readiness in *Gall*, committed them to the Conduct of *Nannienus* a Sober and Expert Captain, and with him joyned *Mellobandes* his Comcs *Domesticorum*, yet a King of the *Franks*, and a Valiant and Martial Person. These two, though of different Tempers, the one being very Wary and Circumspect, the other greedy of Fighting and impatient of Delay; at a place called *Argentaria*, gave these Rovers a notable Defeat; though at first their Men were affrighted at the Number of their Enemies and began to shift for themselves. Of the Barbarians (so many in number as we have said) no more than five thousand escaped, through their knowledge of the Woody Country; and such as died in the Field, were accompanied to another World by *Priarius* their King, who had been the principal Incendiary and procurer of the War.

After this the *Germans* generally do the same.

Maximinus and *Mellobandes* give them a great defeat.

Argentaria oppidum Germanie in Tribocis.

14. With so great success was *Gratian* sufficiently elevated, and bent now toward the *East*. Yet encouraged by the Victory, he could not but in his way turn to the Left Hand; and with all Secrecy imaginable passing the *Rhine*, hoped by Surprise wholly to Conquer or destroy this inconstant and unfaithful People. The *Lentenses* having received frequent Alarms of his Approach, as utterly despairing of any other Course, and too too sensible of the miserable reiterated Slaughter of their Nation, fled with all they could carry away to the Neighbouring Mountains, where they little doubted but to defend themselves by the steepness of the Rocks. But *Gratian* chose out of the Army several Parties, whereof each consisted of five hundred Men, and sent them as it were on Hunting after the Enemy, and though in Skill and Valour these might have the Advantage, yet the other were so Assisted by the inaccessible Precipices, that they maintained the Fight on even Terms, till Night put an end to the Contention. The Emperour so unexpectedly missing of his Aim, called his Officers together, and it was resolved in Council, no more to follow the former Course, but Block them up and subdue them by Famine. But this could not so far Affright or Discourage the *Germans*, but that sufficiently knowing the Country, they removed their Station from this place to other Mountains, less Accessible than the former. For all this, he still pursued them, and laboured to discover the Passages whereby they had Arrived at the Top of the Hills; which Pertinacious purpose of his, had so great Operation now at last upon them, that perceiving nothing would satisfy him, but their Destruction, and that by no Difficulties, could he be deterred from

Sect. 3.
Gratian forces
the Lentienses
to beg Peace.

Which gains
him much Re-
putation.

Frigeride most
strangely
turned out of
Power.

Sebastian, sent
by Valens, cuts
off very many
of the Barba-
rians.

from his Resolution, they begged Peace and obtained it on Condition, to send their Youth to serve in the *Roman* Armies. This so seasonable and otherwise considerable a Victory, incredible it is, how much it advanced the Interest of *Gratian*, who hereby kept in Awe the Western Nations, and facilitated his Designs, as to his Eastern Expedition. And indeed he gained much upon the People by his towardly Disposition, being a Youth well Inclined, Eloquent in Speech, Soldier enough for his time, yet moderate and merciful; though to blame in a fond humour he had of imitating the Emperour *Commodus*, yet so as not to be Bloody. For as that Prince Prided himself in the Dexterity of Casting Darts, so as in the View of the People, he would kill whole Drovers of Wilde Beasts upon the Theatre, nay, an hundred Lyons let go all together, he singled out severally, and killed each with one Shaft alone; so *Gratian* spent too much time in his Parks, in Exercise of the like Nature; and neglected his great and Important Affairs, at such a time, when, if *Marcus Antoninus* himself had Sate at the Helm, he could scarcely have recovered the State out of the miserable Condition wherein it now lay; without great Wariness and some Colleagues chosen of equal temper with himself.

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Ammianus.

15. But having settled the Affairs of *Gall*, as the time would give leave, and the Cases of the several Nations required, and withal, having punished that Soldier who had betrayed his Designs to the Enemy, he took his way by the Fort at the *Happy Tree*, as it was called, and by *Lauriacum* hastened to the Assistance of them, in whose Quarrel he was engaged. In the mean time, when *Frigeride* ordered all his matters with great Prudence and Caution, and now was about to fortify the Streights of *Succi*, so wise a Man though he was, and such an one, as if he had not been employed, should have been by all means drawn out of Retirement and preferred, was discharged his place, and *Maurus* a *Comes* appointed his Successor, one of a quite contrary Disposition, rash and uncertain; he who took a wreath from about his own Neck, and put it as a *Dia-dem* upon the Head of *Julian*, at his Promotion. In those days *Valens* departed at length from *Antioch*, and came to *Constantinople*, where having staid a little time, he found the People tumultuous, and having given the Command of the Foot belonging to *Trajan*, to *Sebastian*, a very expert Commander, whom he had lately sent for out of *Italy*, he departed to *Melanthias*, a Village belonging to the Emperour, where, by Money, good Victuals, and fair words he cared for the Soldiers. Thence he gave Orders for the Army to March to *Nice*, a Station so called, where he understood from his Scouts that the Barbarians having wasted the Coasts of *Rhodope*, were returned with great Booty as far as *Adrianople*, and for fear of him, having heard he was at hand, with a powerful Army, hastened to joyn their Countrymen that lay about *Beræa* and *Nicopolis*. Against them was *Sebastian* speedily sent away with three hundred chosen Men out of Each Band or *Numerus*, and using great Expedition, soon arrived at *Adrianople*, to the walls of which when he approached, he was unexpectedly forbidden by the Inhabitants to proceed any farther; for they were fearful that he was suborned, and sent by the Enemy to entrap them; but at length, perswaded to be of another Opinion, they opened the Gates. Having refreshed his Men with what Conveniences the Town would afford, the day following he issued out, with Intention to cut off certain Parties of the Barbarians, which were roving about the River *Hebrus*, and covering himself with the thickness of the Woods and obscurity of the night, he fell upon them undiscovered, killed all that could not make a speedy Escape, and recovered so much of their Plunder, that if you will believe our Writer, neither the City nor the adjacent Plain it self could contain it. At this so considerable a Defeat was *Frigeride* much disturbed; and fearing that the rest of his Country men, that were dispersed, and rifling the Country, should be intrapped by so expert a Commander, he gathered them together from all Quarters, and departed into the Coasts of *Cabyle*.

16. While matters thus succeeded in *Thrace*, *Gratian* having by Letter informed his Uncle how his Arms had prospered against the *Allemans*, sent his Baggage away by Land, with his Army passed the *Danube*, and by the way of *Bonomia* (a Town in *Pannonia*) came to *Sirminum*, where having staid four days he removed; and by the said River proceeded as far as the Fort called *Castra Martis*, though all the while afflicted by an Ague, having by the way lost some few of his Followers, intercepted by the sudden Incursions of the *Alans*. *Valens* was not so dull, but that he conceived

Febricus inter-
vallatis affli-
ctus.

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Valens envy-
his Ne-
w got in
son against
Goths.When by
letters de-
ces him not
fight till he
could come
his Assist-
ce.it he is per-
aded to the
ntrary.

ceived matter of Emulation upon a double account, both that the *Lentenses* were quite subdued, and that *Sebastian* had got so much Reputation by the late Action about *Hebrus*. Inwardly nettled at the Fame of his young Nephew, he removed from *Melanthius*, out of a Resolution to do something by the repute of which he might equal his Renown; and for this purpose having already in the Field a very good Army, he rendered it yet more formidable, by getting into the Service many Veterane Souldiers, and amongst others of more notable Rank he again imployed *Trajan*, who had not long before been *Magister Armorum*. Now was made a Discovery, that the Barbarians intended by seizing on the Straits to intercept the Provisions he had made for his Men; but this he prevented in good time, by dispatching away with all speed a strong Party of Archers, and a convenient Body of Horse. They, thus disappointed, proceeded slowly and cautiously, for fear of being surprized; and *Valens* by his Scouts being misinformed concerning their Number, longed to be at them. Drawing his Army into the form of a Square he marched toward *Adrianople*, and near the Town intrenched himself, where with impatience expecting his Nephew, he was presently informed by *Richomerus* his *Comes Domesticorum*, whom he had sent before with Letters, that he was at hand. *Gratian* by these Letters earnestly besought him that he would stay for him, and not by hazarding a Battel thrust himself into so great danger; and upon reading of them he called together his Council of War. *Sebastian* and others importuned him not to delay fighting. *Victor* a *Magister Equitum*, a prudent and wary Captain, advised him by all means to stay for his Colleague, and not hazard that Victory by too much haste, which by the assistance of the *Gallican* Troops, there was little doubt but he might obtain.

17. He, as it happens in such cases, when Princes are advised to various courses, took that which most suited his own Inclination, being by some Flatterers persuaded to prevent the Honour which might accrue to his Nephew by the Engagement, and to wear the Laurel alone. While matters were preparing to put in execution what he had resolved; a Christian Priest (*Presbyter*, *Ammianus* tells us they called such) and some others arrived with a Message from *Fritigern*, by which in an humble manner he desired, that he and his Countrymen, who had been driven from their own Seats by fierce and Barbarous Nations, might be permitted to inhabit *Thrace*, and enjoy the Cattel and Fruits there found, which if granted he promised Peace and all good Offices on their part. This the Christian (so he terms him) openly delivered with the rest; but he had other secret Instructions and private Letters from his King, who therein in ambiguous terms seemed to desire of *Valens*, that he would bring his Army into the Field, and awe the *Goths* by the terror of his Imperial Name, without which they were not to be kept in any *decorum*. The Messengers were dismissed as persons not to be understood; but not long after on the fifth of the *Ides of August*, in all haste Orders were given for the Army to march, all the Baggage being sent into *Adrianople*, there to be kept with the Governour and Consistorian Counsellors. By noon they discovered the Barbarians making an hideous Noise, as their Custom was, to Battel, and the *Roman* Captains put their Army into a posture of fighting. The right Wing of the Horse they placed in the Van, for the left was not yet come up, and as it marched with all vigour and speed some of the Barbarians were affrighted with the Noise, and some of them that lay further off with *Alathens* and *Safraces* sent to the Emperour, and in a show desired Peace. He despised them as an abject and base People, and required those of the chieftest of them to be delivered up for Hostages; but they by feigned Excuses drew out the time in length, and delayed till their own Horse could arrive, which hourly they expected, with a further design, that the *Roman* Souldiers might be spent with the Heat of the Season, now increased by the multitude of Fires which they had industriously kindled throughout the Countrey, as well as starved for want of Victuals.

18. But *Fritigern* further to amuse the Emperour, sent and promised to bring all his Forces over to him, together with all things necessary for the Army, onely he required that some Noblemen might speedily be sent as Hostages to him. The Message being acceptable, *Equitius* a Tribune, a Kinsman of *Valens*, and who had the Charge of his Palace, was designed for one, but he refused the Employment, as having had too much Experience of the Extravagancy of the Barbarians when Prisoner with them, for he had made his Escape from *Dibaltum*. Upon his refusal *Richomerus* freely offered himself to it, as becoming a man of Courage and Resolution, who as he was going to the Enemies Camp, certain Archers and others, com-

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Certain Ar-
chers rashly
begin the
Battel.

The most
dreadful, and
bloody of all
others.

manded by *Bacurius* an *Iberian* and one *Cassio*, out of a too earnest desire of fighting fell in upon the *Goths*, and through their rashness gave an ominous beginning to the War. For hereby was frustrated the worthy Design of *Richomeres*, who was not now permitted to pass, and the *Gothick* Horse being come up under Command of *Alathens* and *Sarfraces*, together with a Party of *Alans*, with great violence fell from the Mountains, and bore all down that stood in its way. The *Romans* at the first Onset were overpowered, and great slaughter followed of them, though they made as manful Resistance as could be expected; which procured a Battel of that violence and resolution, that the Historian compares it to a raging and increasing Flame of Fire, as also to a Fight of Beaked Gallies, agitated both by the voluntary Truſtion of each other, and the motion of the Sea. The left Wing broke through as far as the Enemies Carriages, and had done more if any Assistance had come; but forsaken by the rest of the Horse, was oppressed utterly by the Numbers of the Barbarians, which so crowded upon them, that scarcely could one of them draw his Sword, or pull in his hand again when once stretched out. The Dust was so great, that it intercepted all prospect, so that none could be aware of or prevent his being killed or maimed by the Enemies Darts, and by so vast multitudes were the *Romans* hemmed in on all sides, that there was no opportunity of flight, which made them out of desperation to contemn Death, and to sell their Lives at a very dear rate, though the *Goths* seemed fully as resolute as they. For If one of them had his Hand cut off, so that he could not use a Weapon, or had his Legs so mangled that he could not stand upright, yet when conflicting even with Death, would he with rolling Eyes and a grim angry Countenance, shew with how great fury and desire of Revenge he was possessed. Through this mutual Contention, and pertinacious Humour, the Ground was all covered with heaps of dead Bodies, and the shouts of those that fought were not heard, by reason of the loud cries and lamentations of the dying. The *Roman* Foot, utterly spent by the toil and heat of the day, having now neither strength, hope, nor discretion left them, and having broken their Pikes betook themselves to their Swords, and, like mad men rushed amongst the Multitudes of the Barbarians, till such time as they could not hold their Feet, (so slippery was the Earth rendered by the Streams of Blood that now ran every way) but fell upon dead Carcases, which by this time they trampled on without horror; so familiar had Custom made the sight, how dismal soever. The Sun was upon his entrance of *Virgo*, and therefore his Heat, added to the weight of their Weapons, rendered their Thirst, as well as their Arms, insupportable.

Wherein *Valens* miscarries,
it's uncertain
how.

19. In conclusion, the *Romans* were overpowered, and forced to fly as they could; which *Valens* perceiving, while every one shifted away as privily as he could, he betook himself in great fear and anxiety to the *Lancearii* and those called *Mattarii*, who had endured the shock without giving the least ground; at which *Trajan* cried out, that the Emperour deserted by his Guards would be utterly lost if not speedily rescued. Hereupon *Victor* with all speed hastened away to fetch some *Batavians*, who had been placed as a Reserve to the relief of the Prince; but by this time there were no such men to be found: So that disappointed he went his way, as in like manner *Richomeres* saved himself by flight, together with *Saturninus*, whom *Valens* had preferred to the Dignity of *Magister Armorum*. The Pursuit was vigorously prosecuted by the Barbarians, who spared none that yielded, but quitted those that made resistance; and the flight of the pursued was hindered by the multitude of dead Bodies filling the ways, yet indifferently secured by the darkness of the following Night, at the beginning whereof in the twilight its thought the Emperour himself fell amongst the common Souldiers, by the shot of an Arrow: But in what way he miscarried there's no certainty, for his Body was never found, neither was there one alive that could say he saw him, the Enemy hovering long upon the place, as intent upon the Spoil, so that none durst approach it to make any discovery. In like manner *Decius*, one of his Predecessors, in a Battel fought with Barbarians, was cast from his Horse into a Bog, and never could be recovered nor found. Yet was it reported, that *Valens* died not upon the very spot, but was conveyed to a Countrymans House near at hand, which being very defensible by reason of its large Roof, when the Barbarians for some time repulsed knew not the Quality of the Person, and were diverted by thoughts of greater Booty, they set fire to it, and burnt him and it both together. That one of his Attendants leaping out of a Window, and being taken, told the unwelcome News to the *Goths*, (who were much troubled they had not got into their hands the *Roman* Emperour alive

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* *Purpure*
cultus, ab
ptiq; ign
lenis
Exuviae.
Claudian.
Bido Get.
v. 610.

Sect. 3. alive) and afterward escaped with it to his Fellow Subjects. After the same manner came one of the *Scipios* to his end in *Spain*, being burnt in a Turret to which he had fled, by the Enemy: And it's certain, that neither he nor *Valens* obtained Sepulture, the last mark of Honour and Respect. Amongst many other Eminent Persons that perished in this Action, *Trajan* and *Sebastian* were very Famous, and with them fell five and thirty of those they called *Tribuni Vacantes*, besides other Officers; and *Valerian* and *Equitius*, whercof the one being his Kinsman overlaw the Stable, and the other the Palace of the Emperour. *Potentius* the Tribune the *Promoti* was greatly lamented, being a person very acceptable, a young man in the flower of his Age, of singular hope, and recommended not onely by his own, but also by the Merits of *Ursicinus* his Father, who with approbation of all good men had executed the Place of *Magister Armorum*.

20. It's certain that the third part of the Army hardly escaped, neither did any other Defeat (except that of *Cannæ*) equal this Overthrow, in the Opinion of *Ammianus*, with whose Relation concerning this War, the Original and Issue of it, most Writers do agree. But as to what he writes concerning *Valens* his envying the Vertues of his Nephew *Gratian*, other Reasons of his sudden fighting may be added. He was displeased that *Valentinian* being made Emperour without the Knowledge of either of them, *Gratian* had confirmed his Election without his Advice, and had shared the Empire with him, as *Eunapius* related in his History; who also alleged this as the principal Motive to his receiving the *Goths* into the *Roman* Pale; and possibly a disagreement about matters of Religion, (*Valens* being a great Favourer of the *Arians*, and *Gratian* esteemed a most Christian Prince by the Orthodox Party) might increase his displeasure. The Defeat is by *Orosius* attributed to the flight of the *Roman* Horse, which by deserting the Legions exposed them to the fury of those Multitudes that overpowered them by their Numbers. What *Ammianus* writes concerning *Valens* his perishing by the shot of an Arrow, is affirmed also by *Libanius*, who makes him to have fallen in the throng of his Souldiers, though he wanted not Horses swift enough to convey him speedily out of the danger, and his Captains pressed him earnestly by a seasonable flight to escape and preserve himself for better times, and the good of the Commonwealth. But he thought it a thing not by him to be practised, to endeavour to overlive so great an Overthrow, and for a Tomb obtained an heap of such Souldiers as fell with him. Yet most other Historians consent to that other Relation, of his betaking himself to the Cottage, and there being burnt together with his Followers. However it was, at this time and place, viz. about eight or twelve miles from *Hadrianople*, he died, now drawing near the fiftieth year of his Age, when he had reigned fourteen Years, four Moneths, and some Days, on the third or fifth of the *Ides* of *August*.

Valens his
Character.

21. This must be said in his Commendation, that he was a fast and faithful Friend, a severe Punisher of Ambitious Practices, a rigorous Exactor of both Civil and Military Discipline, most careful always and vigilant, lest any through pretence of Relation or Kindred to him, should procure Preferment; both as to bestowing and removing from Employments he was rather too slow, a most just and watchful Guardian of the Provinces, for each of which he took as much care as if it had been his own Family; for he industriously set himself to ease them of the Burthen of their Tributes already imposed, and as for new ones he suffered none to be laid. Moreover, if for Tributes in *specie* Money was to be paid, he was no whit rigorous as to the Summe. To Thieves and Corrupt Judges he was a sharp and vehement Adversary, and in this respect the East was more happy in him, than it had been in any other Prince before him. He was Liberal with a sort of Moderation, as in many other matters appeared, so also in this, that when his Courtiers begged any thing, he would give him that had a title to the Estate time enough to defend himself, and in case it proved his own and he might bestow it, with him that begged it he would joyn some others that were absent, by such disappointment repress the confidence of those that gaped after the Wealth of other men. Many Cities and Towns he beautified both by raising new Buildings, and repairing such as were fallen to decay. Such were his Vertues, which received on the other side great Allays. He coveted Wealth very intemperately, was impatient of Labour, was harsh as far as Cruelty it self, of a clownish Humour, as neither cultivated by any Liberal Studies nor skill of Arms. He cared not who smarted, were but his Designs accomplished; and if he could but fasten Treason, or the Contempt of His Majesty upon any, he far exceeded all Moderation both as to Blood and Confiscations. In this respect his Government seemed

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most intolerable, as also in another Effect of the same Cause; for though he pretended to refer all Causes and Questions to the decision of the Laws themselves, and would delegate particular Judges to certain Affairs, yet never suffered he any thing to be done contrary to his own lust and will. He was cholerick and abusive, received all Accusations readily, whether right or wrong. He was slow and unactive, of a swarthy Complexion, and the Pupil of one of his Eyes covered, yet so as it was not much to be perceived. His Limbs were compact and firm, indifferent was his Stature, his Legs bowed, and his Belly something prominent.

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22. This Character of *Valens* his Mind, the Reader may remember to have been sufficiently confirmed by the precedent Account of his Laws, which shew his Humour and Disposition much as it is described to us by *Ammianus*. By conduct of this Author we have traced his Actions so far as related to War, from the death of his Brother to his own decease; but as to the Civil State we must take a further View of what was done by him and his two Nephews and Colleagues. They after their Fathers Death so divided the Empire of the West betwixt them, that to *Gratian* fell *Gall*, *Spain*, and *Britain*; and to *Valentinian*, *Italy*, *Illyricum*, and *Africk*. Yet was not this Division made at first, and it must be known, that whereas there are extant in the Codes seven and thirty Constitutions, bearing Date from the CCCLXXV Year of our Lord, or that wherein their Father died, to the Year CCCLXXIX, or that wherein *Theodosius* was received as Emperour, there are none which bear the Name of *Valentinian* the Younger, but onely of *Valens* and *Gratian*. The mighty Care which *Valens* had for the Provinces, to protect them from Spoil and Rapine, as well of his own Officers as of the publick Enemy, may further appear from the Laws which we have not yet mentioned, and confer much to the fuller understanding of the state of those Times. The very Year his Brother died he directed from *Antioch* a notable Edict to *Modestus* the *Præfēt*, concerning the furnishing of *Tirones* or new Souldiers. Herein he declares, that the Burthen ought to lie upon Possessions or Lands, and not personal Estates, although certain sorts and ranks of Men were liable thereunto, as *Senators*, *Honorati*, *Principales*, *Décuriones*, the Officers of Magistrates, or the like. And whereas there was an Employment called *Prototypia*, which who so executed, it was their work to hire or buy these Souldiers, and set them at such a rate, or make the Provincials pay such a Summe of Money for each, he abolishes this Office as grievous and vexatious to the People, when it happened that those whom it concerned had no Sons of their own to put into the Service. In the next place he nulls all Privileges granted to any persons to excuse them from this Charge, that so it might lie wholly upon Possessions; as to which, such as had lost them should not bear the Burthen when the Emolument was gone; and if they had but small Estates, or not amounting to the value of the Expence, as here it is the Custom with us in the *Militia*, two or more should joyn together in the furnishing of one Souldier out, one being at the Charge this Year and the other the next; or if Money was to be paid, instead of the Souldier, each of them was to contribute his share. Then doth he settle and establish the Price or Rate of a Souldier to be six and thirty *Solidi*, and six over and above towards his Clothes and Expences; which Rate at several times varied according to the pleasure of Princes, or the scarcity or cheapness of things. And for the Encouragement of these *Tirones* and those that sent them, he declares, That when they were listed in the Army, if they well demeaned themselves they should receive the first Year Immunity from the ordinary *Census*, and having served seven, obtain the same Indulgence for their Fathers, their Mothers and Wives; if so be they served amongst those called *Comitatenses*; but if they lay upon the Borders, or were listed among the *Ripenses*, then they should have onely this Privilege for their Wives. For the *Comitatenses*, as we have said heretofore, were reckoned in place before the *Ripenses*, and greater Strength and Stature was required in one than in the other. And as soon as *Tirones* or new Men were levied, they were not presently put into the Army, or mixed with the rest; but to supply the Numbers of such as were missing, he ordains the Army be reinforced with the *Adolescens* or *Incenti*.

Vide Chron.
Theodosian. ad
An. 375.

L. 7. de Tironi-
bus, Cod. Th.
Abest à Cod.
Just.

Laws made
by him after
his Brothers
Death.

A 2 Edict
concerning
raising new
Men or Tiro-
nes.

23. He had Ministers (as we have seen) rapacious and cruel, yet however he himself might be extravagant this way towards particular persons, yet would he restrain his Officers in any courses tending to the detriment of the Provinces. Therefore did he repress *Fortunatianus* his *Comes Rei Private*, whom *Ammianus* brands with the Name of a Troublesom Exactor, even in a matter which tended

to

Sect. 3. to the filling of his own Coffers. It happened sometime, that amongst the Papers of persons condemned, or whose Estates were confiscate, some Writings were found which mentioned Debts due to them from other men, though no Bills nor Bonds were to be seen, nor any Witness there was of any such Obligation. By an Edict directed to him he declares all such Notes to be Null in Law, it being casie (as he saith) by such means to make any man ones Debtor. Which Edict is transcribed by *Tribonian* into *Justinians* Code, and being by him something interpolated and altered, is accommodated also to the Causes of private persons, no such single Note deserving any Credit to be given to it, no not where the Emperour or his Treasury were concerned. This Constitution bears Date from *Hierapolis* in the Province of *Euphrates*, on the fifth of the *Ides* of *August*, of which same Date from the same place he directed another to *Modestus* the *Præfex* of the East, concerning the annual furnishing of the Souldiers Clothes through his five Diocesses; these were *Thrace*, *Aegypt*, the *East* strictly taken, *Asiana*, and *Pontica*; in all which he ordains, that every thirty *Juga* or *Capitations* of Land shall find one Suit of Apparel, except in four Provinces of *Thrace*, viz. *Europe*, *Thrace*, *Hæmimons*, and *Rhodope*, in which every twenty should find the like. Herein he shewed himself very just and equal, which the Histories of the Times sufficiently make out unto us. For, the other two Provinces of *Thrace*, in particular wherein he declares the number of Thirty is to be observed, were now overrun by the *Goths* and *Huns*, as we have seen. He observes a difference betwixt the Customs of the Provinces of the East; properly so called; for two of them (*Ostroene* and *Isauria*) found Souldiers Clothes in kind, but the rest paid Money in the room of them; as *Palestine* amongst the rest, which shortly after was divided into three Provinces. Now we may take notice that these five Diocesses took up the whole District or Share of the Empire belonging to *Valens*, *Valentinian* having in the Division retained all the residue to himself, and therein all *Illyricum*. And hence possibly arose the Disagreement betwixt *Valens* and his two Nephews mentioned by *Eunapius*, which provoked him to receive the *Goths* or *Scythians*, as they are also termed, into the *Roman* Pale. At this same City he was further so indulgent, as to enact by another Constitution this same Year, That the Children of Senators (Male or Female) should not, if born before they arrived at that Dignity, be liable to the *Glebalis Collatio*, although in matters of Privilege they were esteemed Children of Senators, both as to Honour and other Emoluments. Further to discourage Abuses in matters of Money, wherein the Provincials were so very much concerned, he ordained also this Year at *Antioch*, That such *The-saurenjes*, or those that served under the Treasurers of Provinces, as should be found faulty in their Accounts, should never be suffered to serve in that nature again, nor yet admitted to any other Service; neither those that were still in the Service be permitted to pass over to any higher Employment, lest having such refuge they might be encouraged to betray their Trust. For there were three sorts of Treasurers having the title of *Comites*: The first was *Illustrions*, viz. the *Comes Sacrarum Largitionum* of the West or the East, as *Titian*, to whom this Law is directed; the second was *Comes Thesaurorum*; *Comes Largitionum*, or *Largitionalium Titulorum*, who was Treasurer over the whole Diocese, as that of *Thrace*, *Italy*, or the like; and then the *Præfex* or *Præpositus Thesaurorum* in each single Province, whose care it was to receive, keep safe, and transmit the Revenue. Of his great care for the Ornaments and Lustre of Cities, there is further another Law made by him this Year, and extant, though not in that of *Theodosius*, yet in the Code of *Justinian*. It commands, That all *Curiales* of Cities be constrained either to repair their old Houses, or to build new ones, and therein dwell and attend the Services of their Corporations, as well as contribute toward the Populoufness and Opulency of the Towns. And if the Inhabitants were not of the *Curiales* or Corporation, he obliges them yet to repair such Houses as they dwell in, if decayed, and rebuild them if fallen down.

24. To bid Farewell to *Valens*, after his Reign of fourteen Years, four Moneths, and odd Days; and come to the Administration of *Gratian*. He (as we said before) during his Uncles Life, although his Brother *Valentinian* was declared Emperour, yet governed the Western Parts thereof alone; as appears from the Laws dated for the space of three Years from *Triers* and *Magontiacum* or *Mentz*; whereas there are not any that own the other for their Author. After his Fathers Death he continued long at *Triers*, and for about a Years space had *Maximinus* or *Maximus* for his *Præfex* *Prætorio*; but to expiate all his Villanies he was then

he reprehendeth
the Avarice of
his Officers in
a thing where-
in his own
Gain was
concerned.

A just Edict
concerning
the furnishing
of Souldiers
Clothes.

An indulgent
one concern-
ing Children
of Senators.

Against Abu-
ses committed
by Under-
Treasurers.

For the Or-
nament of
Cities.

A.D.
376.
*Molesto illi
flagitatori.*

*L. 3. de Fiscis
Debitoribus,
Cod. Th. l. 10.
tit. 16. & Cod.
Just. l. 5. cod.
tit.*

A.D.
377.
*L. 3. de Mili-
tari veste, Cod.
Th. & l. 2. Cod.
Just. cod. tit.
Vide Gothofr.
in loc.*

*L. 1. de Sena-
toribus & de
Glebalis, &c.
Cod. Th. l. 6.
tit. 2.*

*L. 14. de di-
versis Officiis.
&c. Cod. Th. l.
8. tit. 7. & l. 2.
Cod. Just. de
Palatinis S. L.*

*L. 8. de Adi-
ficiis privatis,
Cod. Just. l. 8.
tit. 10. Mo-
dest.*

then put to death, when by no other Course, not by Edicts themselves, his Cruelty could be restrained. For, Gratian made divers Laws, as is rationally Concluded, for this purpose, that he might Comfort and encourage the Senate, which had, as we have abundantly seen, been grievously harassed by his unheard of practices. To this end he directed several of his Constitutions or Laws (called, when to the Senate, *Orations*) which with great Joy and Applause were read in the House. By the first of these we meet with, he gives power to the ordinary Judge of the Province, to hear the Criminal Causes of Senators; though he were but of the Degree of *Speſtabilis*, whether *Præſes*, *Corrèctor*, *Conſularis*, *Vicar*, or *Proconſuls*, (all which sorts of Provincial Magistrates he reckons up) but Condemn them he could not, but was to report the Matter to the Higher Powers, as either to the Prince himself, or his greatest Officers, viz. The *Præſect* of the City, if the Party inhabited in the *Suburbicarian* Provinces; and the *Præſectus Prætorio*, if in the rest. Herein he Acted otherwise, than had done either *Conſtantine* the Great, or his own Father, For *Conſtantine* had made a Senator punishable in the Province where he committed the Crime, without any Reference to be made to any other: and *Valentinian* ran so contrary a Course, that he would not have any ordinary Judge to have Cognizance of the Crimes of Senators, and curbed even the *Præſect* of the City as to this point. Indeed antiently none could judg Senators, but those of that Rank, and the *Præſecti Prætorio*, as such, had no Jurisdiction over them. When the Senate came to have the Power of judging its Members, it was committed to the *Præſect* of the City, and he continued their Judge till those days wherein the Power of the *Præſecti Prætorio* became so extravagant, and that of the *Præſect* of the City so much decayed; For now within the *Suburbicarian* Provinces, or the Country an hundred Miles round, was included his Authority. The Causes of such as dwelt within this District, Gratian will have referred unto him; but withall joynes with him the *Quinquvirale Judicium*, or five other Senators, bearing Office at present, or such as had borne Office, who were to be chosen by Lot, and not called at his Pleasure, or Discretion.

One concerning the Trial of Senators in Criminal matters.

A.D. 376.
L. 12. de Accusationibus
Inscript. Cod.
Th. lib. 9. tit. 1.
Abest à Cod. Just.

And in Civil Causes.

Another concerning Quarries and Buildings in Rome.

Two more against Freed men accusing their Patrons, and Slaves their Lords.

25. In such Manner were Senators to be judged in Criminal matters, but as to Civil Causes, by another Branch of this Oration, he put a difference betwixt the one sort and the other; determining, that in the City and *Suburbicarian* Provinces they should stand to the award of the *Præſectus Prætorio*, the *Præſect* of the City, and of the *Magister Officiorum* when the Emperour commanded it, and in the Provinces to the determination of the ordinary Judg. Having indulged so the Senators in a matter so near relating to their own Persons, he farther obliged them and the whole City by his care of the Buildings, for in another Law, thought to be part also of the same Oration, having told them that he had formerly given them leave upon a certain condition, to cut stone out of private Quarries throughout *Macedonia* and *Illyricum*, he now adds, that if they pleased to do it, they should neither be burdened with the Expence of Tribute nor Toll, remitting thereby what was due to himself, though not what belonged to the Party that owed the Land. Hereby we learn that at the making of this Law, on the Ides of August A. D. CCCLXXVI. Gratian had still Command over *Macedonia* and *Illyricum*, whatsoever *Zosimus* saith to the contrary; though he had taken his Brother *Valentinian* for his Colleague; but indeed, when *Theodosius*, three years after, was also chosen Emperour, then was *Illyricum*, formerly undivided, parted into *Eastern* and *Western*. Having hereby sufficiently encouraged them to fetch Materials elsewhere, by another Law, thought also to have been part of the same Oration, he forbade all manner of persons, as well the *Præſect* of the City as other Judges, to raise any new works in Rome, except at his own Charge, and without injury to other Buildings, digging up any old Foundations, or making use of the Stones or pieces of Marble belonging to decayed Works. This same year, finding it was a Custome, and practised, we may little doubt, by *Maximinus*, to have Patrons accused of Capital Crimes by their Freed Men, and Lords also by their Slaves, by two several Constitutions as now we find them directed to this very *Maximinus*, or *Maximus*, he forbids the Practice for the time to come, except only in Cases of Treason, wherein the Emperours themselves are Concerned, and that under pain of Death, to be inflicted on such Accusers by the Sword or by Fire. As to the Emperours themselves an exception might justly be made; for if Slaves might be heard and Examined, against others, in behalf of their own Lords, much

Quinquvirale
Judicium.

L. 2. Cod. Just.
ubi Senatores
lib. 3. tit. 24.

L. 8. de Metallis
Cod. Th.
lib. 10. tit. 19.
Abest à Cod. Just. ut
historia temporaria.

L. 19. de operibus
publicis
Cod. Th. lib. 15.
Abest à Cod. Justin.

L. 1. 2. N. Præter Crim. Majestatis
Cod. Th. lib. 9. tit. 6.
Dat. Id. Mart. Valente s. Valentiniano
A. A. Coſs. A. D. 375.

Sect. 3. much more ought they to be against any whatsoever in behalf of the Common Lords, or Fathers of their Country. By these Constitutions we find in such Cases, the punishment of Freedmen and Slaves, the same; for though the former were now Free, yet their Ingratitude was the greater. So much was this falseness abhorred by the Romans, That Slaves could not be so much as heard against their Lords, but presently were hurried away to Punishment, which formerly was the Opinion and Practice of *Constantine*, as afterward of *Arcadius* and *Honorius*, though *Theodosius* was of another mind; for he admitted them to Proof, and yet, after their Evidence subjected them to the most severe Sentence, admitting the Treachery, but hating and punishing the Traitor. The most antient Emperours abhorred both of them in such a measure, that though they produced Writings, and had prepared Evidence for Tryal, yet they denied Slaves all Credit, Audience and Access. But *Maximinus*, as *Ammianus* tells us, in his enormous Cruelties, was wont to torture Slaves, to make them testify against their Masters, so that these Laws seem directly intended to give a stop to his proceedings; which, when neither they, nor any other Courses could effect, the Sword upon his Throat at last put a stop to his Career, after he had been *Præfectus Prætorio* full four years.

An Edict about false Accusations.

26. By another Edict directed to *Maximinus*, this Tartareous Inquisitor (so they style him) *Gratian* took Care to prevent the frequent and rash Accusations of Forgery; by a Course much more full of mildness and Humanity, than had been practised, at least as he thought, in former times. By the more antient Law for prevention of such malicious or rash Accusations; it was provided, that after a convenient space granted to the Accuser to deliberate what he was about, if he would enter a Criminal Action, he should by Writing oblige himself to make good his Accusation, or undergo the *Lex Talionis*, and suffer the Punishment himself, due to the Crime he had objected. So the Law stood before the time of the Emperour *Antoninus*, who took another Course by remitting the matter to the Office and Discretion of the Judge, to consider whether the Accuser laid his Accusation with an undaunted and resolute mind, in which Case he might remit the Necessity of the Obligation; or with a rash and disturbed Spirit, which if he perceived, he might give him space to consider, and then require the Obligation. But in after-times; the Judges unmindful of their Duties in this point, out of a negligent and severe humour, neglected both the one Direction and the other prescribed by Law, and neither requiring the Obligation, nor granting space to deliberate, as soon as an Accusation was laid on any, they hurried on the Accuser, and gave no time for Passion to vent it self; but made advantage of it to the destruction of the Party. *Constantine*, by a most Elegant Law, took away this Abuse, by retroducting a necessity of the Obligation though formerly he had been of another mind, and so the Matter stood till it came down to *Gratian*, who by a new way yet more accommodated to the antient Laws, endeavoured to put a stop to this mischief. "When first mention is made of Forgery, he ordains, that the Judge give the Accuser his Choice, whether he will proceed against his Adversary by the way of a Civil, or of a Criminal Action, and to grant him a competent time to consider (which *Tribonian* in transcribing this Law hath omitted in *Justinian's Code*) and this not only to him whose only designe it was to accuse of Forgery, but to him also that in another Cause did this by the by, as when they were upon Tryal of another matter, which being offered to be proved by Writing, the Party should say, that the Writing was forged, and such he would prove it to be. If the Accuser thought good to proceed in a Criminal Action, he takes away the necessity of the Obligation to the *Lex Talionis*; as too severe, and fit only to be required in certain Cases, in this as all other Disputes, both Words and Deeds being to be valued and esteemed according to the quality of the persons concerned. He gives this Reason, that it is more agreeable to the Authority of the Judge to punish a Party offending according to the antient Laws, than to take his Measures from any Obligation, or Convention of the Parties; and he Confirms it by two Examples. The first is taken from the *Cornelian* and *Julian* Laws, concerning publick Judgments which require Criminals to be accused, and Forgeries punished without any mention made of such an Obligation; and the second is the Rescript or Law made by *Antoninus* and lately mentioned; both which Examples had never been known, had he not made mention of them in this Edict. In the last place

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A.D.

376.

Olim flante
Rep. de servis
nulla questio
erat in Domi-
num nisi de In-
cogn. Postea
Julius &
Ulpianus
cum leges de a-
dultariis con-
tendis servit,
ut in adultari
questione servi
in caput Do-
minorum tor-
querentur serv-
us sed in que-
stione stupri
servi accitoy
dominos tor-
mentis inter-
rogari non po-
teant ut de
Inco. ait
Papinianus
in L. 17. D.
de questio. 10.
Ubi Paulus in
Amm. p. 365.
l. ult. A. li-
gen Cornelian
de falsis. P. P.
Roma 16. Kai.
Maij. Cod. Th.
lib. 9. tit. 19.
L. penult. Cod.
Just. 10. l. tit.
nige deformata
q. l. de Notas
de Corn.
Cetheg. in L.

he

Sect. 3. he ordains, that if so be the Accuser would resolve to prosecute the Accused in a Civil Action, the Duty of the Judge should be, not to Condemn the Party cast, in more than the Victor was endamaged, but yet when the Tryal was past, then to exert his Authority in punishing either Forgery or false Accusation, as the Nature of the Cause should require.

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376,

He takes care
that Gall be
furnished with
fit Professors.

27. Gratian lying at this time at the City of Triers, took Care that the Cities of Gall should be furnished with fit Professors, by a notable Edict directed to Antoninus the *Præfectus Prætorio* of that Diocess. "He commands that Rhetoricians and Grammarians, both of the Attick and Roman way and Learning, be instituted in every Metropolis; by Attick, as afterward he explains himself, meaning Greek; for Athens as in former Ages, so also in this whereof we write flourished with the Profession of good letters, as appears by many Testimonies. Here Studied Julian the Apostate, Proercesius, Musonius, Hemerius Libanius, and others of Pagan Perswasion; and of Christians, Gregory Nazianzen, Basil of Casarea in Cappadocia, and John Chrysostome; and indeed, the Youth was sent from all quarters to this still flourishing University, as I may term it. But, Persons that are of Franco-Gallick Original here move a question, what need there was, that Gratian should take this Care? seeing Learning already flourished in Gall, which Antiently was furnished with many Academies and Professors. They Cite what Cato said of old, concerning the Acute manner of Speech of this Country, with whom St. Hierome Accorded, when he wrote, that it always abounded with most Eloquent Men. They urge the old Contest concerning Greek and Latine Eloquence before the Altar at Lyons, and hint to us the Account of Learned Men, and especially of Rhetoricians given by Pithæus in his Preface to Quintilian. They tell us, the Designe of Constantius Chlorus is sufficiently known concerning the School of Augustodunum, over which he set Eumenius, whose Oration concerning the Erecting of Schooles, is still extant, when before this, there was an Ancient Academy at Massilia, and another at Adua under Tiberius. Moreover, Symmachus acknowledgeth, that he received the Rudiments of Rhetorick from an old Man that Inhabited, or was borne near the Garumna or Garonne, and how much he was beholden to that Countrey, upon this Account. Nay, from the same Symmachus, who lived at this time, it is evident, that under Gratian himself, the Studies of Gall exceedingly flourished, and that thence, Rhetoricians were sent for to Rome, as Palladius amongst others. The Professors of Bourdeaux are moreover known, as commemorated by Ausonius, who speaks also of Tolouse and the Schoole of Narbone, as also of Vesontio and Lyons, all which, say they, were famous before this Constitution of Gratian. They themselves answer for him, that though there were many Schooles in Gall, yet being much taken with the Gallick Eloquence, which also he had himself imbibed, and daily, where he lived, Converling with Learned Men of this Country, he resolved yet farther to Promote it, as much as possible, first by Ordaining Professors in all notable or most Populous Cities; for by Metropoles in this Law they will have them meant, and not the word strictly taken for the Principal in all Provinces; the number of which, yet at this time they say increased. But the principal Reason they assigne is, because Gratian now resolved to appoint fixed and constant Salaries to the Professors out of the Fiscus or Treasury, as Constantius Chlorus appointed an Allowance to Eumenius out of the Revenue of Augustodunum.

L. 11. de Me-
dicis & Profes-
soribus dat. 10.
Cal. Jun. Cod.
Th. lib. 13. tit.
3. Absq. a Cod.
Just.

Vide Gothofr.
in d. L.

28. And indeed, the Cities in the Provinces were wont to pay Professors their Wages themselves, and Gothofred tells us, that by Fiscus may well enough be meant the Revenues of them, so as this Law may be thus interpreted, that Gratian would have them to maintain their Professors; but by a certain Allowance now prescribed by him, not left at random to their own Discretions, who, he might presume, would make the best market they could one way, as Ausonius complained, and Libanius particularly, concerning the Rhetoricians of Antioch. He thinks the Designe of the Emperour was to leave the Election free to the Citizens: but to assure the Professors a constant and certain Maintenance by his own appointment, as Constantius before him ordaind the Corporation should give Salary to none, but whom he appointed. Now the Allowance setled by this Law, is, to the Orators twenty-four Annone, or daily Provisions for so many Men, and to the Grammarians twelve, being a smaller Number; but to a Rhetorician of the City of Triers (at this time of Gratian, the Metropolis of Gall, and the Seat of the Emperours and of the *Præfecti Prætorio*

Sect. 3.

Prætorio in that Countrey he assigned thirty, to a *Latine Grammarian* twenty and to one of *Greece*, twelve; and that out of respect to the eminency of the place. But here we must needs take notice that but two sorts of Professors are mentioned in this Law, viz. *Rhetoricians* or *Orators*, and *Grammarians*; for as yet in *Gall* there were none that professed Philosophy, or the laws, to learn which the Youth travelled to *Rome*. But we are not by *Grammarians* to understand such as taught the first Rudiments of language only; their Province extending much farther, as including almost whatsoever there was of more Polite literature; and to be sure *Philology*; although in this Edict they be set after and allowed less salary than *Orators*. So much for the Edict itself which we find directed to *Antonius Præfectus Prætorio* of *Gall*, as several others are, who two years after was preferred to the same dignity in *Italy*, and was in *Gall* succeeded by *Ausonius*, whom *Joseph Scaliger* by a mistake would substitute for him, and, erroneously, have the Name of *Antonius* to be blotted out. "The Emperor tells him he will have the former Rules observed throughout all the *Diocesis* committed to his Magnificence; whence is observed that to the *Præfect* of *Gall* at this time did only one *Diocesis* belong, though the *Præfecti Prætorio* otherwise had several under their jurisdiction, as we have seen heretofore, and three sometimes under the disposition of him of *Gall*, viz. *Gall* it self, *Spain*, and this Island of *Britain*. But *Spain* at this time was governed by a *Proconsul* of its own, and was subject to no *Vicar*, and not under any *Præfect* (as the very name of *Vicar* doth import) though shortly after it returned to that form of Government, as appears both from *Eunapius* and *Sulpicius Severus* his History. And *Britain* probably was from the time of the General *Theodosius* under the same sort of Officers, which may be guessed partly from the Example of *Spain*, and partly from this Law, which gives to the *Præfect* of *Gall* but one *Diocesis*. So that they are much deceived who think the Administration of one *Diocesis* below the Dignity of *Illustrious* Persons. For the *Præfect* of the City of *Rome* had but one *Diocesis*, viz. the *Suburbicarian* Regions lying within an hundred Miles; and after these times no doubt there is but that *Præfecti Prætorio* were content with one *Diocesis*, as under *Justinian* he of *Africk*.

A.D.

376.

He gives the
Præfect of
Rome place
above others
in the City.

29. At this time was *Rufinus* *Præfect* of *Rome*, to whom *Gratian* directed another Edict of this year, whereby he gave him precedence over all other Dignitaries in the City. He staid not much longer in his Office, being in the latter end of the year succeeded by *Gracchus*, who continued *Præfect* also the year following. To this *Gracchus* is directed a Law, said to be had in *Seldens* Copy, dated in the first of *December*, which forbids "That any man be judge in his own Cause, for the same reason that no man can bear witness in his own behalf. The Emperor decrees it generally so, as no sort of Person excepted, not *Maximinus* himself who is thought to have been principally aimed at in this Constitution also, upon report or consultation of *Gracchus*, now *Præfect* of that City, wherein several ill things were at this time reformed, and particularly relating to Religion. Now indeed there seems to have been much insolence and severity used by Judges; and possibly by the Example or Procurement of *Maximinus*. For, *Gratian* not long before this in the same year found reason to proceed further for the liberty and honour of *Curiales*, or the Officers of Corporations, invaded doubtless by some who executed authority over them; which were no other than the Governours of Provinces. He sent an Edict to the same *Antonius Præfectus Prætorio* of *Gall*, whereby he commands "That all *Decuriones* be free and exempt from the *Fiducule* and *Tormenta*, although any of them had spent the publick money, or had demeaned himself fraudulently and extravagantly in a publick Office; for although great care ought to be had of Tribute or publick Money, as also of the publick Discipline, yet might they be established by others, besides bloody means. But from this Immunity he excepts Persons guilty of two sorts of Crimes, whereof the one he expressly declares to be *Treason*, and the other not to be spoken of, but thought to be in degree and importance next unto it, as namely the crime of *Magick*. He also distinguishes betwixt *Fiducule* and *Tormenta*, and these they called *Plumbate*, from the strokes of which he will not have guilty or criminal *Decuriones* to be exempt, which Priviledge yet was afterward indulged them in the East, but again not long after revoked, and the old Law introduced afresh. Yet by this Constitution he grants this Immunity to ten of the chief of them, and he wills also that it be moderately used towards the rest that were subject to this pain, as not to be inflicted but upon highly criminal persons and Publick Debtors. Those *Plumbate* however were leaden Bullets, tied to Whips or Thonges, wherewith some were corrected for amendment, and others punished, so far, as often death ensued thereupon.

L. 3. de Offic.
Præfect. Urb.
Cod. Just. l. 1.
tit. 28. Dat. 6.
Cal. Jul.

L. Unic. Ne in
sua causa quis
judicat. Col.
Fo. l. 2. tit. 2.
D. vulsa hæc
L. in Cod. Just.
in L. un. cod.
tit. 8. L. 10.
de testibus.

L. 2. de quæsti-
onibus Dat. 15.
Cal. Octob.
Trev. Cod. Th.
lib. 9. tit. 35.

Is kind to the
Decuriones.

30. The year following, which was the CCCLXXVII of our Lord, wherein *Gratian* the fourth time, and *Merobaudes* were Consuls, that Emperor abode for the most part at *Triers*, though one time by a Subscription of a Law we find him at *Mentz*. *Hesperius* the Son of *Ausonius* was, for this and the three following, *Præfectus Prætorio*, and besides him *Modestus* was Prefect of the *East*, and *Antonius* still of *Gall*. *Gracchus*, as we said, still continued *Præfect* of the City; for, the first Edict of this year, made by *Gratian*, we find directed unto him. Whereby He forbids "the examining Senators by Tortures, a thing practised as we have seen by that cruel *Maximinus*, to the abolishing of which Custom introduced by him, this Constitution seems intended, as several other Laws against his practices, and that at the Petition of the Senate, though the Monster himself, whose nature could not be sweetened, probably had had his Throat cut the preceeding year. On the twenty seventh day of *July*, we find *Gratian* at *Mogontiacum* or *Mentz*, perhaps in order to his expedition against the *Alamans*; for it was now that he got so notable a victory over them at *Argentuarina*, a Town of *Gall*, wherein was killed *Priarius* their King. From *Mentz* a Constitution bears that date, directed to *Antonius*, and forbids "That in the afternoon any Person of the same Province be admitted to the presence of the ordinary Judge, whether known or unknown to him, nay of what degree or quality soever. For in the morning it was supposed that they heard Causes in the *Secretarium*, and attended business in publick, and, but in publick he would not have them to receive any Impression at all, not by the Information or motion of any person in private, lest they should be corrupted, or for fear or favour be biased contrary to their own Judgement, or the justice of Causes depending before them. That sometimes this hapned, especially in *Gall*, we may well believe if we judge of the Disease from the Nature and Efficacy of the Remedy, and give credit to *Libanius* the *Sophist*, who wrote two Orations concerning this Subject, wherein with all earnestness and Rhetorick he could use, he desired the Emperor to make such a Law as this before us, which Orations *James Gothofred* partly first published, and partly illustrated with Commentaries. By the middle of *September* we find the Emperor returned to *Triers*; for, thence he sent another Edict to *Probianus* now *Præfect* of *Rome*, wherein he takes care "That the Wine which was furnished by the Provinces, or the *Urbicarian* Regions, for the Use of that City, should be received as soon as it was brought or presented; and such as would not endure Age, presently disposed of to the Use of the Citizens. Such ordinarily were the *Italian* Wines, herein of a different Nature from those of *Syria*.
31. Part of the next year, which was the last of his Uncle *Valens*, *Gratian* passed also at *Triers* well nigh to the month of *May*, as appears from eight Laws made by him at this place; and then marched to the Assistance of his Uncle. The two former of these Laws bearing the same date; and directed to the same Person, *viz.* *Antonius*, now *Præfect* of *Italy*, seem to have made one and the same Constitution though of something different Subjects. In the former he declares to be Law what had been formerly held as a Rule by most understanding men in that faculty, "That when both a civil and criminal Action lay, the Party concerned in any thing respecting his Profit might try the Cause both ways, neither could the criminal Action be extinguished by the Civil. He explains it by several instances, as if a man were violently dispossessed of any thing, he might not only have the *Interdict* or Writ called *unde vi*, but by the *Julian* Law concerning this Subject, might put in an Accusation against the *Deficisor*. In like manner, if a Testament was concealed, not only the ordinary Writ for exhibiting it, did lie, but also an Information by virtue of the *Cornelian* Law concerning Testaments. The like was to be observed, If a Freed-man pretended himself to be free born, in matters of Theft, and other Offences. One only exception he allows to his Law, *viz.* the Civil Action concerning Manners, as in case a man brought it against his Wife, for her naughty behaviour, he could not for the same fault bring a Criminal Action of Adultery, because by the very Civil Action concerning manners he prosecuted her to punishment, and not to any pecuniary mulct, and this being for abusing his Bed, one and the same Crime ought not to receive two punishments; the reason why this Action descended neither to nor against an Heir. But amongst other Offences he declares Forgery also to be subject to Actions of both sorts, and by the second part of this Constitution, or the second Law, explains what Forgery he means, which was such as was too frequently used; in the time of *Valentinian* and *Valens* especially. We have seen out of *Ammianus Marcellinus* how the Arts of Magick and Incantments were laid to the charge of many eminent persons, and those of the Senate escaped

Sect. 3.

He forbids examining Senators by torture.

He declares that both a civil and criminal Action may lye.

A.D. 377.

L. 3. de quaest. fionibus Cod. Eod. Dat. Præd. Non. Janu. Trev. l. 10. Cod. Just. de Dignitat.

Vide Chron. Theodosian. L. 6. de Offici. Rectoris Provincia Cod. lib. 1. tit. 7. Abst. à Cod. Just.

Vide eum in L. 3. Tributa in ipsa specie bus, &c. Cod. Th. lib. 11. tit. 3. Abst. Cod. Just.

L. un. viñnu civiliter age & criminaliter poss. Cod. Th. lib. 9. tit. 2. Dat. præd. in Jan. L. un. Cod. Just. eod. tit. lege Julia vi. De tabulis exhibendis, leg. Cornelia testamentaria.

L. 7. de fidei sum & instrument. Cod. Th. lib. 11. tit. 59.

L. penult. Cod. Just. de privi.

Sect.3. escaped not in this point, the malicious Designs of such as desired to have them removed out of the way. This was another of *Maximinus* his Tricks, which *Gratian*, having done so much already to reform the cruel Customs introduced by him, resolved to make null by this Constitution. Thereby he expressly commands, "That such as should pretend to know of any such wicked Magical or Inchanting Writings, whereby it might be said that the Life of the Prince or others was in danger, and promised to make good their Charge, if they failed therein, should be punished no otherwise than as persons guilty of Forgery, without any formal accusation, by the meer Office of the Judge. And such are the Laws certain as to time and place, which *Gratian* after his Fathers death, and his Governing the rest by himself, made, yet during the life of his Uncle, and which we thought proper to be mentioned in this Work; for others that relate solely to the *Jus privatum*, we think fit to be omitted. Some there are which go under the Names of his Father, his Uncle and himself, but without day or Consul now extant in the *Code of Justinian*. One of them settles the matter of precedence betwixt the *Vicars of Præfects* and the *Comites* or *Magistri Militum*, so that in military Affairs these should be preferred before the former; but if they hapned to sit together in Judgment, the *Vicar* should have precedence out of respect to the *Præfect* whom he represented. By another Law they declare, that they will receive and hear the Reports and consultations of these *Vicars*, as well as of other Judges.

A.D.
377.L. 1. de Officio
Vicarii Cod.
Just. lib. 1.
tit. 38.

L. 2. eod. tit.

32. But to return from our Law-History, to that of the War. When the Night following the great Overthrow and death of *Valens* was past, and it was now light, the victorious *Goths*, like so many Wild-beasts enraged to farther attempts by the taste of blood, having understood by some Fugitives, that many Persons of eminent quality with *Valens* his Treasure had staid behind in *Adrianople*, hastened thither and besieged the City. They most vigorously assaulted it, but it was as resolutely defended, and it hapned that many who had fled from the Battel, for want of time, having not been received into the Town, three hundred of them went over to the *Barbarians*, who cut them all in pieces, and by so severe an Act prevented the like Treachery for the time to come. In the heat of the Fight a violent shoure of Rain chanced to fall, which drove them to their Carriages and Rampart; whence by threatening Letters they moved the Defendants to yield to quarter. The Messenger was not admitted, but the Letters were carried by a Christian, as our Historian calls him, and being read, were slighted, as reason required; and thereupon the remainder of the Day and the Night following were spent in preparing for a fresh Attack. They within blocked up the Gates with massy Stones, and placed their Engines where need required, with plenty of Water, for want of which many had well nigh perished by thirst the day before. Without, the *Goths* began to be sensible how difficult the enterprize was on which they had entred, and that their power was much diminished by the loss and unserviceableness of their stoutest men. They betook themselves therefore to a crafty Device, which by justice it self *Ammianus* tells you was discovered. They perswaded certain Fugitives to counterfeit flight back into the Town, with design to set it in some convenient place on fire, that the Defendants thereby diverted, the Walls might be scaled with greater ease. These men whom he calls *Candidates*, came to the Trench, and stretching out their hands, desired that as *Romans* they might be admitted; and as such they were, no suspicion being had of them. But when they came to be examined about the Enemies Design, they could not agree in their Answers, which hinted so much to those concerned, that being put to torture, they confessed on what Errand they were sent, and lost their Heads. The *Goths* frustrated of their aim, with all preparations they could make, and minds hardened against Death and Danger, gave another Onset, about the third watch; and by their Numbers thought to do the work; but such was the Valour and Constancy of the Besieged still, that they failed of success, and this disadvantage they had by their multitudes, that whatever the *Romans* let flie at them, did some execution. But especially a *Scorpion*, or sort of Engine, called the *Wild Ass*, by casting at them a very great Stone, though it broke in the fall, did so affright them, that they fairly betook themselves to their Heels.

Ammian. lib.
31. ad calcem.Their device
discovered.Often reput-
ed, they raise
the Siege.

33. Yet by the earnest endeavours of their Officers the Fight was renewed; wherein still the *Romans* had the same advantage which the Multitudes of their Enemies formerly afforded; yet did the *Goths* courageously maintain the fight till it grew dark, and then they retired, fretting in vain, and upbraiding one another that they had not taken the Advice of *Fritigern*, who by all means desired they would decline Sieges. Applying themselves all Night to the dressing of their wounds;

Sect. 3.

They approach Perinthus.

They see Constantinople.

Julius in the Eastern Parts out of fear of their joining with them puts their Country men to the Sword.

Ammianus Marcellinus concludes his History.

His Birth and Breeding.

wounds; when Day came they were much distracted in their Counsels what to do, but at last resolved to seize upon *Perinthus*, and breaking up their Camp laid all waste in their Passage; which as soon as they within *Hudrianople* perceived, by those they could trust, with all diligence they hastened away with their Wealth as they could, not by the Common Roads, but by-ways to several Quarters. Some towards *Philippopolis* and so to *Serdica*, and others towards *Macedonia*, thinking about those parts to find out *Valens*, of whose Death they had not received the least intimation. In the mean time the *Goths* with the *Huns* and *Alans* their Confederates, two stout and Warlike Nations, which *Fritigern* by great promises of Booty had cunningly drawn into their Party, encamped themselves before *Perinthus*, yet smarting with what they had felt before *Adrianople*, they dreaded so much as to approach the City; but wasted that fertile Country far and wide, the Inhabitants whereof they either took or killed. This done, they passed on towards *Constantinople* in four square Bodies, for fear of being surprized, hoping to be Masters of the great wealth they knew to be in that City. But so Providence ordered it, that when now they began to press toward the Gates, a Party of *Saracens* lately sent for thither (as that People was more dextrous in sudden Attacques, than in set and pitched Battels) fell out on a sudden upon them, and after an Earnest Dispute came off on equal Terms, though by a strange Fact committed by one of their Number, they seemed to have the better of it. A man with long hair hanging about him and all naked, but his Privy parts, with an hideous noise, and a Dagger in his Hand, ran into the midst of the *Goths*, killed one of them, and setting his Mouth to the Wound, sucked his Blood; with which so Prodigious a Spectacle the Barbarians were quite daunted and in a far different humour than formerly, began to consider the State they were in, and marched very warily. For, perceiving the great Compass of the Walls, (by reason of so many Islands taken in) the strength of that beautiful Place, and the vast Number of its Inhabitants, they razed the Fortifications they had made upon the Streight, and having lost more Men than they had killed, they departed through the Northern Parts as far as the Foot of the *Alpes* then called *Julia*, but to Antiquity known by the Name of *Venetæ*.

34. Yet by this their bold Attempt, they brought more mischief upon others their Country men, than upon themselves. For when it was noised up and down how miserably *Thrace* had suffered by them; the Eastern Provinces began to quake and tremble, as expecting the Storm would presently be at their own Doors, which caused *Julius*, a *Magister Militum*, beyond the Mountain *Taurus*, to venture upon a safe and wholesom, though sharp and severe Course, to prevent so great a mischief as might happen. There were multitudes of *Goths* dispersed also through divers Cities and Castles of these Quarters, though headed by *Roman* Officers; a rare thing, *Ammianus* writes, in those times. For fear they should rise and side with their Countrymen if they came that way, he thought it safest by secret Letters to their Officers, to Order that they should all be put to the Sword on one and the same day, when under colour of receiving their Pay, they were drawn out into the adjacent Fields; by which Prudent Council, Executed without either Noise or Delay, the Eastern Provinces were delivered from very great Dangers. So *Ammianus Marcellinus* ends his History, which being a Soldier by Profession, and a *Greek* by Descent, from the Principality of *Nerva*, he had, according to his Ability, he saith continued till the Death of *Valens*, a worke which should pretend to tell Truth, as never to his knowledge, suppressing anything by Silence, or enlarging Narration by any Lies. He ends it with Advice, to such as flourished with Learning, and whose Age rendered them more proper for it, to write what remained; and if they thought fit to undertake the Task, he desires them to *whet their Tongues*, (so his Expression is) *to a greater Style*.

35. This is all at parting, he saith of himself; but sensible of the Assistance he affords us to the History of the Age, whereof we write, we cannot, out of gratitude to his Memory, so take our Leave of him. He was born at *Antioch*, and, we have ground to believe, of Noble Parentage, serving the Emperour in his Youth, as *Domestick Protector*, to which Employment few or none but the Sons of *Duces* and *Comites* were admitted; and we are told, that *Constantinus Chlorus* and *Jovian*, who were afterward Emperours, as also *Gaudentinus* the Father of *Aetius* took thence the Rise of their Military Employments

A.D.

378.

Sect. 3. ments and Preferment. It was the Ambition, as we have seen by the Laws, of all other Soldiers, even of the *Veterane* or *Emerite* to be advanced to the place of *Protector*, which *Ammianus* arrived at, even in his Youth. Now, whereas it was the Custome for some of these *Domestick Protectors*, to Attend for the Security of the Princes Person, and others were sent with the *Magistri Militum* into the Provinces; *Marcellinus* was by *Constantius*, as he writes himself, ordered to Attend *Ursicinus*, the *Magister Equitum* in the East, with whom he returned to *Milan* and followed him into *Gall*, to suppress the Tyranny of *Silvanus* which happened in the year CCCLV. And when *Ursicinus* was sent back again into the East, our Historian did not forsake him; where, in what Battels he was present, at what Sieges, what Dangers he incurred, and how otherwise employed; He himself Relates, and we from him have already shown. After the Death of *Constantius*, he went in the Expedition of *Julian*, against the *Persians*, and therefore being an Eye-witness of what passed, we have much more reason to follow him in our Narration of that War, than *Zosimus*, or any other. During the Reigns of *Valentinian* and *Valens*, what Course of Life he followed; cannot well be told; but when the Empire was devolved upon *Gratian*, *Valentinian* the second, and *Theodosius*, he left the East, and went to *Rome*; whether or no called by the Emperour, is uncertain. However, he made no Advantage of the Place, for indulging a Luxurious or Idle Life, as most Persons did, that there chose to Sojourn; but applied himself to Study, and the Conversation of most knowing Persons; as sufficiently is known from the one and thirty Books of History which he wrote.

36. That he wrote this History at *Rome* appears from several Evidences; as from his severe Invectives he makes against the Behaviour of the Citizens; of which he takes notice, and not that of other places, however vitious enough. He refuseth to set forth the Calamities of that City, lest what happened to *Phrynicus* should fall to his Lot, who taking for the Plot of a Tragedy, the Siege and loss of *Miletus*, which was a Colony of the *Athenians*, was by Decree of the People of *Athens* heavily Censur'd. But to evince his living at *Rome*, *Valesius* who has made very learned Annotations upon him, produces a Letter out of the *French Kings Library*; written to him thither by *Libanius* (that eminent Sophist of this Age) which because it contains matter tending to the Renoun of our Author, he thought fit to exemplify, and we cannot but take notice of what's therein contained. "He begins with congratulating with him that he was at *Rome*, and with *Rome*, that she was possessed of him; him, for that he dwelt in that City, the like to which the world could not shew, and her, because she had him, such an Inhabitant as was nothing inferiour to her own Citizens, however descended from no less than *Heroes*. He tells him it would be very much, if he, there hearing others recite their works, as the Custome was, should in so great a City himself keep Silence; for as much as *Rome*, even at that time, had also her Orators, who not at all degenerated from their Fore-fathers. But, he saith he had heard from such as came from *Rome*, that He also had published, or recited some of his History, which was divided into several Parts; and he perceived that the Applause he had got by that, invited him to the publication of the rest. Moreover, that *Rome* it self Crowned his Labours, and the Judgment of the whole City was, that as He excelled some, so he was not out-done by others. He adds, that things of this Nature, did not only grace a Writer of Histories, but gave Repute also to the Country that brought him forth. And he bids him proceed, to recite what was belinde, and receive that Admiration and Applause which he deserved, and not be wanting to what redounded to the Commendation both of himself, and of *Libanius*; and others of the same Original with him. At last, with Wishes for the continuance of his good Fortune, he bewailes his own mishap in loosing his only son, no ill Childe of a good Mother; although she was not of free Condition.

37. This notable Letter of *Libanius*, not only proves *Ammianus* to have lived at *Rome*, but also, that by Birth he was an *Antiochian*, to which City, how kind he was, sufficiently appears, in his defending the Inhabitants from the Invectives even of his Beloved *Julian*, and the Crimes fastened upon them, in his *Misopogon*. His History we see by *Libanius*, was published in Parts; and, indeed, the twenty seventh Book not till after the Death of *Gratian*, and the Destruction of *Maximus* the Tyrant; and he mentions *Neotherius* the Consul, who bore

A.D.

378.

Vide Valesium in Pref. ad lectorem Ammiani Histor. Premissa.

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His History
was published
in parts.

not

Sect. 3. not this Office till the Year CCCXC. But in his two and twentieth, he speaks of *Serapis* his Image as yet standing, which was, by an Edict of *Theodosius*, demolished in the year following *Neotherius* his Consulship. Of the worth and Use of his History, too much cannot be spoken. For the Matter thereof, both as to the Argument, Choice and Disposition, and his Judgment and Fidelity therein, it yields to none whatsoever. His words (however) are most of them *Latin*, but the Phrase is *Greek*; and it must not be denied, but it is harsh, and his Style affected, not suitable to that of an History, which should ever be gentle; plain, and simple. But most to blame, is his Affectation of a *fame* of Learning, a Vice as *Valesius* well observes, incident to those who betake themselves late to Study; which makes him break out of the Path of his Narrations, into idle vain and needless Excursions, about the Causes of Earthquakes, Comets and the like, so as to nauseate the Palate of any one, but meanly skilled in the Delivery of Truth. However, the Faults of his work, are far overmatched by the great Virtues thereof; which commend him, not only to those who desire to know the *Civil*, but even the *Ecclesiastical* Affairs of the time wherein he lived and wrote. For though by Religion, he was a *Pagan*, with such Candor, Modesty and Fidelity, he speaks of matters relating to *Christianity*, that were it not most evident from many passages, that such he was, one might take him for a Man of our own Belief. The Antiquities of the *Franks*, *Burgundians*, *Alamans* and other Nations, he alone in a manner hath delivered; and if his thirteen former Books had been preserved, though they handled matters much more Concisely, (as therein delivering the History of near thirty Emperours) yet they had afforded us much more light to the knowledge of those dark times. And as those thirteen are lost, the eighteen remaining, though they escaped the Shipwreck, yet underwent so great damage, became so shatter'd and imperfect, that they deterred many from perusing of them, not only through the Imperfection of the Copies, but the fault of the Publisher, till they fell into the hands of *Lindenbrogius*, and afterward of *Valesius*; by whose learned Amendments and Annotations, they have been well restored to their native Lustre.

The Excellency of it.

A.D.
378.

The Narration of *Socrates* the Ecclesiastical Historian Concerning the Siege of Constantinople.

38. With *Ammianus*, agreeth *Socrates* the Ecclesiastical Historian, that the Emperor *Valens* being dispatched out of the way in such sort, as no man was certain of, the Barbarians marched toward the Walls of *Constantinople*, and began to destroy the Suburbs thereof. That the People, moved thereat, went out on their own Accord to withstand the Enemy, and every one took what Weapon came first to hand. *Dominica* the Empress, now Widdow of *Valens*, gave Rewards to every one that went forth to Battel, out of the publick Treasury, according to the custome of paying the Soldiers; *Mavia* also, the Queen of the *Saracens*, being in League with the Empire, sent a Party of her Subjects to Aid them, whereupon, the People gave them Battel, and drove back the Barbarians from the City. But *Gratian* receiving word of his Uncles death, and of such things as followed thereupon, as well as the occasion thereof, (and the power and practices of the *Goths*, who dayly committed some outrageous Act against the *Roman* Interest, and by their Example, drew on the *Huns*, *Alans*, and other Barbarous Nations into the Quarrel) marched into *Pannonia*, with as strong an Army as he could raise, to give some check to their presumptuous boldness. But for that He alone could not be sufficient to grapple with so great difficulties and Necessities as at present the Empire struggled with, he began to consider of whom he should make Choice to be Sharer with him in the Care and Burthen, as well as in the Power and Dignity of the Throne.

39. *Gratian* indeed, having received the Newes of his Uncles Defeat and Death, from *Victor* the *Magister Equitum*, who with a few more had escaped out of the Battel, went presently to *Sirmium*, there to Consult what Course to take to preserve the Western Provinces. Before well he could have the Report, five or six days after his Uncles Death, he sent an Edict to *Vindicianus* a *Comes Archiatrorum*, and a *Vicar* in some Diocess of *Gall* (for it was the Fortune sometimes of these Principal Physitians to be intrusted with Governments and rise to high Dignities) whereby he signifies, that He had repealed by his Letters directed to the *Praefects* of these Districts of *Gall* and *Italy*, a former Constitution which gave leave to *Aurileguli* or those that sought for Gold-Oare, to pass as many as pleased into *Sardinia*. It seems there was some particular Reason relating to that Island, which occasioned this Indulgence, possibly

Zosimus lib. 4. p. 751.
*l. 9. de Metal-
 lis Cod. Th.
 Dnt. 18. Cal.
 Sept. Abst.
 à Cod. Just.
 quia localis &
 temporaria*

Scct. 3. some new Mine discovered, and thereupon greater encouragement given than usual. But probable it is also, that this Permission was found inconvenient, and that by Reason thereof, the other Mines within the Prefectship of Gall were neglected; for such there were there, and also most famous Gold-Mines in Spain, as all affirm that write of that Country; besides what they say particularly of the River Tagus. In Gall this Metal was digged, as in the Mountain *Cenmenus* under the Pyreneans, in the Country of the *Tarbelli*, and also in the *Alpes*, as *Pliny* and *Strabo* have delivered; however now, and in these latter Ages, Europe hath neglected what she hath of her own, and cared only for what hath been far sought, if not dear bought, out of the *Indies*. At the latter end of this same year *Gratian* also thought fit to decide a Controversie betwixt the *Prefect* of *Rome*, and the *Consularis* or ordinary Governor of *Campania*. That part of the Country called *Latium*, and lying near to *Rome*, properly belonged to the Government of the *Prefect*; but either for that he could not be at leisure when need required, or for other Reasons, it had been united to *Campania*, yet so, as to own, and acknowledge still the Authority of the *Prefect*, who, as he received Appeals out of *Campania*, so in things of greater Consequence, was to hear and to determine matters belonging to *Latium* in the first Instance. But the *Consularis* exceeded his Bounds, and so far usurped upon the Right of the *Prefect* of the City, within whose *Dioecesis* *Latium* lay, that by an Edict directed to *Antonius*, *Prefectus* *Pretorio* now of *Italy*, the Emperour thought fit to declare, that the *Consulares* of *Campania*, ought not to exceed that Power which was given them in a Place under certain Rules and Restrictions; neither Banish any Persons out of their own Province. By virtue hereof, these *Consulares* could neither Banish into, nor out of *Latium*, the general Rule being, that no Governour of a Province, could relegate or Banish any one into any place that was not fully in his own Jurisdiction, nor any person any whither, but who was fully subject to his own Authority.

Gratian decides a Controversie betwixt the *Prefect* of *Rome* and the *Consularis* of *Campania*.

A.D. 378.

Vide Gothofr. in l.

L. 12. de *Pænis* Cod. Th. lib. 9. tit. 40. Dat. pridie Cal. Decemb. Trev. Adest à Cod Just. ut historica & temporaria.

He pitches upon *Theodosius* for his General.

Out of Gratitude to his Tutor *Ausonius*, he declares him Consul with *Olybrius*.

40. *Gratian* being come to *Sirminum*, gathered together all the Force he could make, and therewith having passed through *Pannonia*, visited *Mysia* and *Thrace*, as far as *Constantinople*, where he took Care for the quiet of the *East*, and the Limit of the *Danube*. But now standing in need of a good Commander, there had been so many lost in the late War against the *Goths*, he pitched upon *Theodosius*, the Son of that *Theodosius*, by *Thermantia*, who Commanded as General, with so great Success both in *Africa* and here in *Britain*, a Person who for his skill in War, might well be taken for the Son of such a Father, and whose Dexterity in matters Civil, and relating to Peace, was no whit Inferiour to the other; for he had already given sufficient Testimonies of his Ability, though for the present, by reason of a Faction in *Spain* his own Country, he seemed to be laid aside, or rather underwent a voluntary Retirement. Having sent for *Theodosius* from *Spain*, when the time now for designing Consuls for the following year was come, out of generous Gratitude to his Tutor, or Schoolmaster *Ausonius* of *Burdegala*, or *Bordeaux*, an Eminent Poet of this Age, he declared him Consul with *Olybrius*, and gave him notice of it by this Letter,

When I considered with my self alone, whom I should name Consuls for the ensuing year; as you know my manner is, as is my Duty, and I am certain your desire, I asked Counsel, (or referred it unto) God, in Obedience to whose Authority I have designed and declared you Consul in the first place, and have sent you the Robe (Trabea Palmata) which Divus Constantius our Father himself wore. I have paid what I ought, and I yet still owe what I have paid.

Vide *Ausonij* *Orationem* *Pænegricam*.

When *Theodosius* was arrived, he ordered him to command in the Eastern parts, and, some there have been who wrote, that after he had received his Command, he engaged against the Barbarians, and got a notable Victory over them, which if true, it had not been forgotten by those more ancient Writers who have endeavoured to set off with Lustre the Life and Performances of this Person. But for certain it is, that *Gratian* finding the Emperour oppressed with manifold Dangers and Inconveniences even near to miscarriage, by reason especially of the Barbarous Nations their pouring themselves into the Provinces; considering that he himself had enough to do in Gall with the *Germans*, being but twenty years old; and his Brother *Valentinian*. not above thirteen, and there-

Sect. 3. therefore unable to manage any publick Business; he closed with the Advice of those who perswaded him to take *Theodosius* in as a Partner in the supream Power. For this purpose being now at *Sirmium*, he called the Nobility together, and directing his Speech to him in particular, told him he was resolved to commit the *East* to his Charge. He gave him thanks for the great Honour he intended him, but by words, endevoured what he might to decline the burthen, which he declared too great for him to undergo. However, *Gratian* would not contend with him in Modesty, but whatever the other might do, spake what he thought, and required him to take Patience and accept of it. So was *Theodosius* advanced to Share in the highest Dignity and Power upon Earth, on the sixteenth day of *January*, being thirty three years old, A. D. CCCLXXIX, in the Consulship of the lately mentioned *Ausonius* and *Olybrius*. A.D. 378.

Makes *Theodosius* Emperor.

Composeth the difference betwixt *Palatines* and Governors of Provinces.

Forbids Appeals against the opening of Testaments.

Publishes a severe Edict against the Harbours of new Soldiers that fled from their Colours.

41. *Gratian* having taken this good Order for the Settlement and Security of the *East*, and had Intelligence that the *Allemans* had again passed their Bounds, and fallen into *Gall*, left *Theodosius* at *Sirmium*, and returned with speed into that Country. For still did he keep to himself, in the threefold Division that was now made of the Empire, *Gall*, *Spain*, and *Britain*. To his Brother *Valentinian* fell *Italy*, *Illyricum* and *Affrick*, and to the Share of the New Emperour, The *East* with *Thrace*; but not *Illyricum* as *Sozomen* mistaketh. Before he quitted *Sirmium* he took notice of the Differences which were wont to arise betwixt the *Palatines*, or Officers belonging to the *Comites* of the Consistory, who were often sent into the Provinces upon Errands relating to the publick Revenue and other matters of great Concernement, and the Governors of Provinces themselves. "He declares that doing their Duties in such manner" they were not to be discouraged by the Ordinary Judges or Governours, who "were often very severe to them, as those they found to be Spies upon their Actions, and on the other side, not standing now in any fear of them, he yet requires, that if they have any occasion to deal with them, they shall pay them all the usual Respect and Reverence. *Hypatius* was at this time *Præfect* of the City of *Rome*, of whom *Ammianus Marcellinus* gives this Character, That he was a meek and milde Person and given to Quiet, and he seems to have been so milde, that *Gratian* by an Edict directed to him, rebukes him for it, with a Penalty to be inflicted for the future. Against any Sentence whereby the opening of a Testament was enjoyned, or for putting the Heir into Possession of the Estate of the Deceased, there ought by Law to lye no Appeal, because those things admitted of no Delay. To this purpose *Adrian* the Emperour made a Law, that whosoever was found an Heir by Testament, should within a year after the opening of it, be put into possession, and that upon occasion of the twentieth part of Inheritances; lest there should be any Delay in the Payment of that Imposition. Now it appears, there was some Default in Judges, in admitting Appeals in those Cases, which meek and good natured Persons were more apt to do than others; to prevent this miscarriage for the time to come, he imposeth a Muft of twenty pounds of Gold both upon the Party that should make such Appeal, and upon the Judge who should admit it. By virtue of *Adrian's* Edict the Heir needed not to sue for his Estate according to the Testament, which if he did, he lost the Benefit of the Edict; but *Justinian* afterward repealed the Edict, and gave Liberty to the Heir to obtain possession, though the year were out; against whom he would not have Prescription, though of a long time, to take place.

42. By the Date of this Law it appears, the Emperour was back at *Triers* before the middle of *August*; where being arrived, *Ausonius* in many words returned him thanks for making him Ordinary Consul, by an Oration, which, in many respects, *Sigonius* thinks fit to be perused. But in his way back to *Gall*, he passed through *Venetia* and *Liguria*; for, in the Month of *July*, and beginning of *August* we finde him at *Aquileia*, a City of the one, and at *Mediolanum*; or *Milan*, the now beginning to be the most frequented of all Places belonging to the other. Being come to *Aquileia*, he found that the *Tirones*, or New-raised Soldiers, absented themselves, and sought to Desert the Service, and that those they called *Actores*, or Managers of Lands in the Country, were wont to harbour and Conceal them so offending. This by a Law made at this place and directed to *Hesperius* the *Præfect* of *Italy*, he prohibits upon pain to the Con- cealer of being burnt alive, which Punishment was sometimes inflicted upon the Desertors themselves (so the Law terms them) as appears from *Ammianus*. And for

Vid: Chron. Theod. ad Ann.

379

L. 1. de Palat.

tinis S. L. &

R. P. Cod. Th.

lib. 6. tit. 30.

Dat. 6. Cal.

Mart. Abst. a

Cod. Just.

L. 26. Quorum

Appellat. non

recipiuntur.

Cod. Th. & L.

6. Cod. Just.

cod. tit.

L. 2. de De-

fertoribus &

occultatoribus

eorum Cod. Th.

lib. 7. tit. 18.

Dat. 6. Non.

Jul. Aquileia.

§. 3. for the time to come, he threatens the Lords of the Grounds shall undergo the same, if these their Officers continue still to offend in the same sort. But as these Souldiers endcavoured to withdraw themselves from serving the publick with their bodies; so at the same time there were others who would gladly have been excused from contributing with their Purfes to the finding of Horfes. These were the *Navicularii*, of whom we have often spoken, and particularly of the great height to which they were risen through the Indulgence of some late Princes, so as they were not only made partakers of the *Equeſtrian* dignity by *Constantius* and *Julian*, but some Senators would joyn themselves to their Body, and now there were some found amongst them who obtained from the Emperors honorary Codicils or Letters, whereby the greater Codicillary Dignities were conferred on them. Now such as obtained these Titular Honours were wont to be subject to extraordinary charges, as of Souldiers, and Horfes for the Wars; though some of them, as those that had discharged Employments in the Prince his Palace, were privileged from them; and to these charges still *Gratian* resolves that the *Navicularii* shall be subject, for all their obtaining the Codicillary or Titular Dignities.

A.D.
379.L. 15. de *Naviculariis* Cod.
Th. Acc. 12.
Cal. Aug. Con-
stantine Abist.
à Cod. Just.Abates the
rigour of the
Paternal Pow-
er.

43. About the same time *Gratian* thought fit to abate the rigour of the Paternal Power, which had been already attempted, since the Sovereign Authority was become Christian. This Power at first was so extravagant as to extend to life over Children, which though the Law at length thought fit to lessen, even as to the Persons of those not Emancipated, yet as to their estates, except what they got by serving their Country, all was wholly in the power and propriety of their Fathers. *Constantine*, the great, thinking it very unjust that obedient Children should be so severely dealt with, took order that their Mothers Estates should be so ascertained to them, that it should not be in the power of their Fathers to alienate them, who should have only the *Ususfructus* during the time of their continuing under their Paternal Authority. But, as Laws are wont to gather force by degrees, so the Law in this point got ground, together with the Christian Discipline, which mollified the Rigour of the former Customs. *Constantius* confirmed what his Father had done, as to the Mothers Goods, and afterwards added certain Cases, wherein the Estates of Grandfathers by the Mothers side, being left to the Children, should not be acquired either by the Father, or his Heirs. But now *Gratian* by an Edict directed to *Hesperius*, made what was but to be observed in certain Cases to hold good purely and simply, enacting "That not only the Goods of Mothers, but of Mothers Fathers, and Mothers Mothers should be out of the Power of Fathers as to alienation, and that they should only have the *Ususfructus* of them; But as for Estates coming from Strangers, and from Relations in a transverse Line, he left them, as formerly, to be acquired by Fathers. After this, *Valentinian* carried the matter on farther, forbidding Estates got by marriage to be acquired by the Father, and that by an Argument drawn from the Grandfather and Grandmother lately mentioned; as the cases of these are by this Law derived from the Example of the Mothers Goods. At length *Justinian*, by Example drawn from all these Rules, extended the Law to all sorts of Casual or Adventitious Estates, and there it stood at the highest pitch of Indulgence. But *Gratian*, as we said, having passed through *Venetia* and *Liguria*; made a Progress also through the ancient *Gall*, through *Rhetia*; and visited those that inhabited near the *Rhine*, the *Sequani*, and *Germania Prima*; by his Appearance in those Parts he restrained the motions of the *Suevi* and *Alamians*; and leaving these Countreys in a settled Estate returned to *Triers*, where for some time we must leave him, and attend the Motions and Actions of our New Emperor.

L. 6. de *maternis bonis*. Dat. prid. Cal. Aug. Acc. 4. Kal. Sept. Abist. à Cod. Just.Theodosius at
Theſſalonica.

44. *Theodosius*, after the departure of *Gratian* for *Gall*, removed to *Theſſalonica* in *Macedonia*. Here we find him on the sixteenth of *June*, by the date of a certain Constitution directed to *Pancratius* his *Comes Rei Private*, of which we must speak upon another occasion. *Zosimus* tells us, that he showed himself easie of Access at this place, and that such as came to him upon business from all quarters returned with such Answers to their demands, whether respecting the publick or their own private concerns, as were fit and convenient. But at this time vast numbers of the *Transſtrian* Nations, viz. *Scythians*, *Goths*, *Taifali* and others having passed the River, and being become troublesome to the Provinces, he made all preparations to drive them out. All *Thrace* they had over-run, and such Garrisons as were there bestowed in Castles up and down dared not so much

L. 12. de *jur. re Fisc.* Cod. Th.

Quoprius, p. 751.

Sect. 3.
Modares cuts
off a Party of
Barbarians.

as peep forth; much less to come to any Engagement in the open field. There was now one *Modares*, a man of Royal Blood amongst the *Scythians*, who not long since had come over to the *Roman* Party, and having performed some faithful services was preferred to a Command in the Army. He having led his men up to an Hill, whence he had a fair Prospect of the adjoining Country, by his Scouts discovered that the *Barbarians* abused the advantage which the fruitful Plain afforded, and were most of them overcome already with Wine; whereupon he gave order to his Troops, to leave behind their heavy Armour, and only with their Swords and Targets to surprize these dissolute men; which they did, and easily put them all to the Sword, many of them never being sensible who it was that hurt them. Having plundered their Camp, they found and took four thousand Waggon full of Women and Children, besides Slaves answerable to such a Company, and such as followed on foot, being to ride when their turns came; for, they had not Carriages enough to take them all in at one time.

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A story of *Zosimus* concerning *Julius* his putting the Sons of the *Barbarians* to the Sword.

45. In this manner *Zosimus* writes that *Thrace* was preserved from imminent ruine; when at the same time he adds, that the *East* was manifestly near to destruction upon this occasion. When *Valens* received the *Goths* into *Thrace*, he did it with this caution, that for their Fidelity he would have such of their Children as were under Puberty to be delivered up as Hostages, and those he sent to be educated in the *East*, under the Care and Inspection of one *Julius*, whom he knew to be sufficiently able, both for their safe Custody and Education. *Julius* so dispersed them through the Towns of these Tracts, that they might have as little advantage as might be to meet and conspire against the Empire; but the news of the Defeat of their Countrymen in *Thrace* could not be concealed; and so disturbed them, that as many as were in one Town, laid their Heads together, and privily sent to those that dwelt in other places, to let them know that they designed to fall upon the *Roman* Cities, and revenge the death of their Parents and Friends, being now arrived at ripeness of years. *Julius*, how private soever they were, discovered the Plot; and not knowing well how to prevent the suddenness of the blow, yet sent not to *Theodosius* to acquaint him with it, partly because he was at a distance in *Macedonia*, and partly for that the charge had been committed to him by *Valens*, and not by the new Emperor, unto whom also he was scarcely known. He wrote secret Letters to the Senate at *Constantinople*, and from it received Power to act what he should think fit and convenient for the State; which obtained, he sent for all the Officers of the Army, and having taken an Oath of secrecy, imparted to them his resolution. Hereupon, they being sufficiently instructed, caused it to be given out throughout all places where the *Barbarians* lived, that the Emperor was resolved to be very liberal to them, not only by giving them money, but Lands also, therewith to deserve their friendship and adherence to the Interest of the *Roman* Empire. For this purpose they were admonished to assemble together at a day appointed, within the *Metropolis* where they lived, and not fearing any thing gladly expected the Day, remitting now much of their Anger and Zeal for avenging the death of their Parents; and when the time came, they all appeared. Then did the Souldiers who were brought together for this purpose, seize on the Houses round about the *Forum*, where they stood, and what with Stones, Darts and other Weapons destroyed them all, and thereby delivered the Eastern Cities from imminent danger.

Various Reports concerning the Actions performed against the *Barbarians*.

46. This is the account *Zosimus* gives us of the Success against the *Barbarians*, both in *Thrace* and the Eastern Provinces. Herein he takes no notice of the Persecution of *Theodosius*, but makes all to have been performed by the Officers; one of which, *Julius* by Name, he says, refused to send to him, but desired a Commission from the Senate of *Constantinople*; a probable matter, that an Emperor already so declared, and in possession, should be so slighted; but indeed this Writer deals as fairly with him, as with other Christian Emperors. According to his custom he tells all his stories in a way, and with circumstances far different from the general concurrence of other Historians, and particularly of *Ammianus Marcellinus*, who lived in these times, and had great reason to know the true state of Affairs; and this amongst the rest, which he relates at the end of his work, as done before the pre-ferment of *Theodosius*. Indeed these actions performed against the Barbarous Nations, after the time at which *Ammianus* left writing, are obscure; both as to the time and manner thereof. For some will have *Theodosius* to have performed great things against them, while yet but General, and before he had the Purple given him;

vide Sigonium ubi supra. p. 184.

trary to what they had engaged, he thought it best to mix part of them with the Army that was in *Egypt*, and send for some Forces out of the Legions of that *Dioecesis*. According to the Emperors Orders they marched; and in their way, the *Romans* behaved themselves very civilly, paying honestly for what they called; but the *Barbarians* quite contrary, offering violence to those that sold Provisions. At *Philadelphia*, a place of *Lydia*, they met, where the *Egyptians*, inferior in number to the *Barbarians*, obeyed the orders of their Officers, but the others presuming in their own strength took much upon them. One of them being demanded money in the Market for what he pretended to buy, drew his Sword and cut the Seller and his Neighbour that came in to assist him; upon which accident the *Egyptians* gently admonished the *Barbarians* to abstain from such unjust oppressions, which did not at all become Persons that pretended to live after the *Roman* Laws. But they being too good to be advised altered, what their fellow had done, by drawing their Swords at the Reprovers, who not able to contain their indignation, fell in with them, and killed of them above two hundred men. Having thus chastised them that remained, and perswaded them to carry themselves more civilly toward such as would take no Affront at their Hands, they proceeded in their March, and the *Barbarians* kept on their way to *Egypt*, under conduct of *Hormisdas* the *Persian*, son of that *Hormisdas* who served under *Julian* in his War against that Nation.

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379.

49. The *Egyptians* being come into *Macedonia* and taken in amongst the Legions there, no order at all appeared in the Camp; no distinction betwixt *Roman* and *Barbarian*; but all went promiscuously together, without any certainty in the Muster-Rolls. And as for the Fugitives it was permitted them, though listed in the Army, to return home, and to send others to serve in their rooms, and yet when the fit took them, to return again to their Colours. But this liberty they enjoyed not without such effects as any one in prudence might justly foretell. For they held intelligence with their Countrymen, and letting them understand how negligently all things were managed on the *Roman* part, they resolved to make Use of that opportunity which the great confusion in the Army did afford them. Having without difficulty passed the River, (for none there was to oppose them, and those that pretended to have forsaken them, rather farthered their design) they entred *Macedonia*, whither the Emperor came with all his forces. At Midnight they perceived a great Fire to be kindled, which they concluded to be for the Use of *Theodosius* and his Followers; and therein being confirmed by the relation they received from Fugitives, they hastened strait to his Pavilion, taking their direction from the Fire. Now did most of the Fugitives joyn themselves to their Countrymen, and far more in number thus united they were, than the *Romans* and such as still remained with them. Yet did they find stout resistance, which served to this purpose, that the Emperor had time to shift for himself and get away; and though his men that he left behind, were all cut off, yet they fell not without an infinite number of *Barbarians* accompanying them to another world. Had the Northern men used the advantage given them, and pursued *Theodosius*, as they might have done, they had easily taken him and all the rest; but being rendred Masters of *Macedonia* and *Thessaly* by this Victory, they contented themselves with it; neither Imposed they any Tribute upon the Towns; but left them as free as they found them. The Emperor, after their departure into their own Country, fortified with Garrisons all the Castles and such Towns as were walled; and then went to *Constantinople*, where he wrote to *Gratian* concerning what had hapned, and how some speedy course was to be taken to prevent that ruine which impended. Having sent away the Messengers, he then fell upon the *Macedonian* and *Thessalian* Cities, which, as if they had received no damage from the late IncurSION, he burthened with the usual Tributes, and so severely exacted the payment, that in a manner he took away what the humanity of the *Barbarians* had left. For not only were they constrained to pay money; but even the Ornaments of their Women, and all their Clothes, so as our Writer had almost said they had nothing left to cover their nakedness, and all this under the notion of Tribute; insomuch that every Town and Village rung again with Cries and Lamentations of those, who universally extolled the *Barbarians*, and called upon them for their help. Such was the estate of *Thessaly* and *Macedonia* in these days.

50. However, our Emperor splendidly and as in triumph entred *Constantinople*, without any respect had to the publick Calamity; and being thither come, made immo-

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immoderate Use of the Delights and Pleasures of that great City. On the other side *Gratian* was much disturbed at the news he had received from him, and, with as much expedition as might be, sent away considerable Forces under the Command of *Bando* and *Arbogastes*, both *Franks* by Nation, great Friends to the *Roman* Interest, free from Covetousness and Bribery; and both very stout and expert Captains. They being come into *Macedonia* and *Thrace*, the *Scythians* who sufficiently understood their Worth, and still remained in these quarters, hasted away into *Thrace*, which formerly they had wasted, and doubting what further course they should take, betook themselves to a Trick (not much unlike to the former) whereby they cheated *Theodosius*. They sent to him certain Fugitives, of most base condition, to promise him Friendship and obedience in whatsoever he would require. And he very easily admitted, and gave them Credit, not at all instructed by his former Experience of their fidelity; and hereupon more followed, and he received them all. By the Sottishness of this Prince were matters again reduced under the Power of these Fugitives, which Sottishness he increased by his voluptuous course of life. For whatever tended to the corruption of manners and humane conversation, received such encouragement and increase during the Government of this Emperor, that all those that imitated him in his way of living, seemed therein to place all that could make them happy in this World. Ridiculous Mimicks and pestilent Dancers were now in request, and if any thing could contribute toward obscenity, and this wicked and dissolute Musick, it was practised both in and after his time; for to so great depravity of Manners was the Generality now inclined, that such as came after, imitated those that went before them in this sort of madness. And besides all this, the service of the Gods was everted throughout all Cities and Countries, insomuch that all who believed there were Gods, were in danger, together with those that looked intently to Heaven, and worshipped such things as they there saw.

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379.

51. The last thing related by *Zosimus* we may easily grant to be true, and whether prejudice raised from this proceeding of *Theodosius* did not exasperate our Historian and those of his Persuasion, we shall not now enquire; but to make a true judgement of this dismal character he bestows upon him, take in what the Laws and other Writers generally afford us of his Actions, which are the truest testimony that can be given to humane Life. By his Constitutions we find, that from *Theffalonica*, whither we said he removed after the departure of *Gratian*, he went to a place called *Scopi*, whence he directed another Edict to *Pancratius*, concerning the chusing of the Principal of the Office of *Comes Domorum per Cappadociam*, commanding, "That it should be every year out of the *Palatine* Officers, as of old it was wont, and not from amongst the *Agentes in Rebus*. This *Comes* of the Emperors Houses in *Capadocia* was once under the Command of the *Comes Rei Private*, although, as we have already seen, in the time of *Theodosius* the Younger, when his Breviary or *Notitia* of the Empire was made, he was subject to the *Præpositus sacri Cubiculi*: But why *Cappadocia* should have its peculiar *Comes* for Houses and Lands there, appertaining to the Emperor, might well be considered. *Iustinian* says that the ground was so excellent, that it pleased exceedingly the foregoing Princes, who therefore bestowed on it a Magistrate of its own, who was nothing inferior to the Civil Magistrate, or *Proconsul*. But yet, how these Possessions came to the Emperors, and particularly why they so pleased them, he doth not express. It's therefore thought, that when *Constantine* confiscated the Revenues belonging to the Priests, and Pagan Temples (which made several Writers, as *Libanius*, *Eunapius* and others discontented and raile as well as *Zosimus*) he appropriated to his own Use also those that he found in that Province. And how large these Revenues were in this very Country appears, from *Strabo* his description but of one City and Temple, viz. the City of *Comana*, and the Temple of *Bellona*. *Comana* was a memorable City, in a Valley of that Mountain called *Antitaurus*, wherein was a great multitude of those they accounted possessed Persons, and such as laboured in the business of Sacrifices. The Inhabitants, being of that sort of *Cappadocians* called *Cataonians*, were otherwise subject to the King; but chiefly obedient to the Chief Priest, who was esteemed as Lord both of the Temple and of those which ministred therein, who when *Strabo* was at the place, exceeded in number six thousand Persons, reckoning both Women and Children. Besides, there was much Land belonging to the Temple, of which the Priest received the Revenue; for amongst that People, in Dignity he was next to the King, and most commonly of the same Family. We see then the Emperor, having

The Objections examined by considering what the Laws and other Authors speak of his Actions.

Lib. 2. de Palatinis, S. L. & R. P. Cod. Theod. Cen.

Lib. 12. p. 535. Edit. Cantabrigiæ.

secured

Sec. 3. secured these Revenues belonging to those superstitious Uses, might well have large possessions in *Cappadocia*, which also was a Country so good and fertile, that the Prince had a great Breed of excellent Horses there.

A.D.

379.

He makes an
Edict about
the Gold call-
ed *Aurum Co-*
ronarium.

L. 4. de *Auro*
Coronario. Cod.
Th.

Gratian is In-
dulgent to
Physicians.

L. 12. de *Me-*
di. & Profes.
Cod. Th. Dat.
18. Kal. *Octob.*

Severe against
Debtors to the
Publick.

L. 1. *Qui Bonis*
ex lege Julia
cedere possunt.
Cod. Th. lib. 4.
tit. 20.

52. The next place we find *Theodosius* at, is *Vicus Augusti*, a Place of *Dacia Ripensis*; for, thence he gave forth another Edict to the same *Pancratius*, which in the opinion of Lawyers shewed his Clemency and Moderation. It was concerning that Gold called *Aurum Coronarium* wont, as he expresses in this Constitution, to be given to Princes by the *Curiales* upon three several occasions. The first was out of their love and respect to the Persons of the Emperors, as upon their first promotion, (so they presented *Julian*) or when they were Adopted, (so *Antoninus Pius*) or when they hapned to come to their City, or when Mienlengers were sent to them upon some Requests, or the like. But the second occasion mentioned in this Law is, that of Indulgence or Remission of Tributes or Debts due to the Treasury; such as *Gratian* granted at this time, to which we might imagine his Law to have reference, had it not *Theodosius* for its Author. The third and last was upon occasion of Victory or good Success, which was the most ancient and especial occasion; for it was given them in Crowns already made, or for the making of such Triumphal Ornaments; and thence came it to pass, that covetous Generals would catch at all opportunities to Triumph, in expectation of this Gold, which extorted a Law of old, that it should not be given them except a Triumph had been desired. "Upon whatsoever of these occasions it was given, he would have it received in whatsoever form it was brought, whether in "Crowns or Images, (as sometimes Images of *Victory* were presented) and "though it had not received the greatest purification by fire; because it ought to "come, not from constraint, but a willing mind. These were remarkable Laws made by *Theodosius* in his first year relating to civil matters. *Gratian*, as we said, being returned to *Triers*, amongst other Edicts of smaller concernment, published another directed to *Vindicianus*, his *Comes Archiatrorum*, in behalf of the Physicians of his Household, whereby he confirmed to them two Privileges or Immunities. "The first was that of the *Senatores Adlecti* who enjoyed the Dignity and Prerogative of *Senators*; but were not subject to the Burthens "belonging to that Order, as those of *Glebalis Collatio*, and the *Prætorship*; and "this Immunity he extends also to their Heirs; as on the contrary, if such *Senators* as were obliged to be *Prætors* died before the exhibition of the publick "Games, their Heirs were bound to be at the Expence. The second Privilege was "That if these *Palatine Archiatri* arrived at the Dignity of *Comites*, which usually they did, that then they should be excused from those they called *Jordid* "Offices, or Employments, as were some others of the same Degree. Thus *Vindicianus* to whom the Edict is directed, is the same we spoke of before, who arrived at the Dignity of *Vicar*, having written a Book of Medicinal Observations for the Use of *Valentinian* and his Sons.

53. But though he was Indulgent to Physicians, he was severe enough to such as were Debtors to the Publick, for the preservation of his Revenuc. Most miserable in old time had been the condition of all that were in Debt, whom, as we learn from *Dionysius Halicarnassensis* and others, the Creditors had so much in their power, as to subject them to Drudgery, Imprisonment and Torture; which Custom, though introduced by reason of the carciness and knavery of some, who made no Conscience of retaining or spending what belonged to other men, yet produced such Acts of cruelty and oppression that by the *Julian* Law a *Cession* of Goods or Estates was introduced; so that those who quitted all they had, were not to be Imprisoned nor Tortured for what it was not in their power to discharge. But this, on the other Hand, was in some space of time found to give occasion also to great Inconveniences; for thereof crafty and cheating Knaves made advantage to defraud honest men, by concealing part of what they had; and luxurious Spendthrifts, knowing they could come but to this at last, encouraged themselves in their lavishment and debaucheries. Now as to torturing of Debtors, *Constantine* the Great, and his Son *Constantinus* did not approve of it. But *Valentinian*, as *Ammianus* tells us, adjudged such to death as were not able to pay what they ought to the Treasury. "His Son *Gratian* now took a middle course, admitting the practice of *Cession* still; but only allowing it to such Debtors as by Providence were reduced to Poverty; as by Robbery, Shipwrack, "Fire, or some other Calamity, which they were to prove; otherwise all Dil-
lute or Malicious Spendthrifts he will have still by severity of Punishment for-
ced

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ced to the payment of their Debts; which yet *Justinian* afterward did not approve, but being of the opinion herein of *Constantine* and *Constantius*, left this Constitution out of his Code; requiring in case of *Cession* a full proof, or any Oath, that the man was unable to pay; which was agreeable to the ancient Law. And the last remedy left to Creditors is, that if they can find out any Goods or Estate belonging to their Debtors, they may sue for it, and recover such moneys as are due to them from other men.

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The fifth
Consulship of
Gratian, and
first of Theo-
dosius.

54. The year which followed, being of our Lord the CCCLXXX, had for Consuls *Gratian Augustus* the fifth, and *Theodosius* the first time. In this Consulship mention is made of seven several *Præfetti Prætorio*, viz. four under *Theodosius*, (to whom Laws are directed from *Thessalonica*, *Adrianople* and *Constantinople*, and published at *Antioch*) as, *Entropius*, *Neotherius*, *Florus* and *Tatianus*, and three others, viz. *Probus*, *Hesperius* and *Syagrius*, the Districts of whom lay in the *West*; the Constitutions directed to them being dated from *Aquileia* or said to be published at *Rome* or *Hadrurnetum*. To *Entropius* we find a Law directed this year, whereby liberty is given to the *Illustrious*, the *Præfetti Prætorio*, to impose fines as far as fifty pounds of Gold, in case of heinous Offences. These Fines ordinarily were returned into the Treasury; yet was it in the Power of the Judges to appoint them to some special Use, as to the *Cursus Publicus*, publick Buildings, the relief of the Poor, or other necessary charges, as still the Parliaments of *France* do practise. Hereby *Theodosius* enlarged the power of the *Præfets*, and about the same time extended it even to the depriving of the Governours of Provinces, or inferior Judges; and degrading them so far, as to the vilest condition of men, if found corrupt and abusing their Power. By removing from the Senate to the state of the vulgar had been usually punished *Senators* guilty of Falshood, especially during the Government of that most excellent Prince *Alexander Severus*; neither was *Theodosius* the first man that brought up this of degrading Judges to the same condition. Before the *Julian* Law, the punishment of corruption in them was that of Exile, and the Value of the Loss sustained by the injured party; but that Law contracted it within these limits of removal from the Senate, and the Value of the damage: yet afterward according to the merit of the cause was the penalty increased. This new Constitution being made at *Constantinople*, seems to have taken its original from some complaint made to *Theodosius* there, who after his Promotion (by confession of *Zosimus* himself) while he lay in that City, had application made to him by many from all places, according to their particular wants, who received such dispatch as was agreeable to their several cases.

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Gratiano

A. 5.

Theodosio

A Co's.

Theodosius in-
larges the
power of the
Præfetti Præ-
torio.

L. 4. Cod. Just.
de modo multa-
rum. l. 1. tit.
54.

A Law of his
against cor-
rupt Judges.

L. 1. Ad Legem
Juliam repe-
tundarum Cod.
Trib. tit. 27.
Dat. 18. Kal.
Feb.
L. 12. Cod.
Just. de Dig-
nitatibus.

55. But, how great a calumny this same Historian raised against this Emperor, or else how slender his judgement was, in that he charges him with weakening the Army and rendring inconsiderable the force of the Empire. *Gothofred* tells you sufficiently appears by other Laws he made about this time, from which it is evident how careful and solicitous he was to restore it to its wonted strength and lustre. About a fortnight after the Date of the late mentioned Edict, he published another, to the Provincials of his Territories, whereby he signified out of what sorts of men he would not have Choice made of Souldiers; and this, as is concluded, in order to the carrying on of the *Gothick* War. It being one of the main points to receive such as are fit, and reject others; he declares "He will have in the first place no Slaves, whom the continual practice of the *Romans* forbade to take Arms; nor any, out of the meanest Victualling Houses, or infamous Drinking Houses, which sort of Persons were looked upon as so vile, that it was not accounted Adultery which was committed with the Mistress of such Houses: Nor out of the Companies of Cooks or Bakers; nor such as belonged to the *Gynæcia*, or had pitiful effeminate Employments, or were taken out of the *Ergastula* or working Houses, where those were kept in labour, who either were condemned thither as a punishment for crimes, or else for their Subsistence, as not able otherwise to live, had condemned themselves to that drudgery. For, there were *Ergastula* not only of Slaves but of those also which were born, or made free, in those Days, notwithstanding the Constitution made by the Emperor *Adrian* for taking them away. Now all these sorts were forbidden to afford *Tirones* or New-souldiers, and that under penalty of finding three du-ly qualified for one so unfit, and that by Award of the *Magistri Militum*, and according to their Discretion, if intimated to them. Of these *Magistri*, if *Theodosius* now made five, or more, in room of two; for the better management of this great Concern; and other reasons; he might do it, without such dismal effects as

In Com. ad l. 8.
de Tironibus
Cod. Th. Dat.
4. Kal. Feb.
Abest. 2 Cod.
Just.

He declares
out of what
sort of men he
will not have
Souldiers cho-
sen.

are

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Publisheth a
severe Act a-
gainst Inform-
ers.He further
shews his a-
version to the
begging of
Estates.

are suggested by *Zosimus*, whose story concerning his supine Neglect of Affairs, his excessive Rapacity; Selling of Offices, and Luxurious life, its possible, will be very much suspected before we have done with the History of his Laws. To be sure he protested his extream hatred against Informers at this time; and by his Acts declared it, those sometimes necessary but generally Evils of a State, who found holes in mens Coats, and by Accusations, right or wrong, promoted the Interest of the Treasury, or rather of begging Courtiers. He found them growing mischiefs when he came to the Government; and therefore by a Constitution (divided now, its thought, into two Laws and directed to *Pancratius* his *Comes Rei Private*, and to the *Provincials*) he ordained "That before such Beggar could enjoy any fruit of the Prince his liberality, he should cause the Informer to be produced in open Court, not only when an whole Estate or inheritance was begged, but any particular thing or piece of Land. And that he should not only thus be produced when the Emperors Rescript or Grant was shewed in the Court of the *Comes* lately mentioned; but also sent down to the Province where the Estate or thing begged lay; there to make good his Charge where the matter might best be determined one way or other; and if it proved a calumny, the *Provincials* might have the satisfaction to see the punishment (by death) of the False Accuser. In the last Place he inflicts the pains of Death upon any who shall have informed thrice, nay, although he had made the charges good; and this as he saith out of hatred, whereby he execrates all Informations of this Nature.

56. Further, this same year, he showed his hatred, not only against Informers, but the begging of mens estates, by other Laws; which here we shall mention, because relating to the same Subject. He commands the same *Pancratius*, that a Grant obtained shall be of no Force till it appeare from the matter heard and examined in his Court, what particularly the Estate was, which was begged, and Certificate be made thereupon. This would, by a full Information, let the Emperor know what he had given, and prevent his being surprized and cheated by the usual diminishing and undervaluing of such things by those that begged them. But by another Edict directed to *Entropius* the *Præfectus Prætorio*, he puts a greater Stop to their Greediness, by an incapacity laid upon some things confiscate to be so employed; plainly declaring "That the Estates of such as were proscribed for Treason, shall not be begged; and if granted, the Grant shall be of no force. And whereas he saith, the shamefulness of some such Petitioners many times by their importunity wrested from Princes what was not to be granted, he declares his own Rescript in such cases, as made contrary to Law, to be of no Force at all. But if he should think fit, of his special grace, certain knowledge, and meer motion, that is, without the Desire, Request or Begging of the Party, to give or grant any such Estates, such Grants so made should be of full effect. Now why he should make this exception in the cases of Treason, it being lawful to beg any other Estates, was either, for that Accusations of this Nature were often made, and of the most rich and considerable Persons, by such as gaped after their Patrimonies; or, as *Gothofred* believes, out of a certain peculiar and too great mildness and benignity towards Offenders in that kind, which made him often easily pardon both Words and Deeds against his own Person, which both *Libanius* and *Themistius* in their Orations do testifie and otherwise will appear. Therefore would he keep open some Door to Clemency, which was innate to him, by shutting it against the importunate voracity of his Courtiers, who presently after condemnation of the Party flew upon him; for which Reason also, as it seems, his Son *Arcadius* afterward ordained, that the Estates of proscribed or condemned Persons should not be begged within two years. But whereas *Theodosius* forbade this as to the Estates of Traitors only; we must not omit that this Law by *Justinian* is extended to all other Crimes, who would not have any thing begged at all, whether it fell to the Treasury by Proscription, or any other ways for want of Heirs. "As to our present Account of *Theodosius*, he subjects to extraordinary or Arbitrary punishment, such as should Beg contrary to the Import and meaning of this Law; and by another, made two years after, extends this Prohibition to such Houses or Dwellings as were fitter to be made Palaces, and for the Emperors own Use, than dwellings for Subjects. If any should be so bold as to beg any such Places, when Confiscate, he pronounces him punishable as for Sacrilege, nay, although he did it out of ignorance, or being deceived "

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L. L. 12. 13.
de Petitionib.
C. Cod. Th.
Abst. à Cod.
Just.Illud etiam
professiones o-
dis quo univer-
sas Delationes
exsecramur ad-
jungimus, &c.L. 14. eod.
tit. Abst. à
Just.L. 15. Eod. tit.
C. l. Cod. Just.
de petitionib.
bon. Subl.L. 16. eod. tit.
Abst. à Cod.
Just.

Sect. 3. deceived; and for this Reason, that *He* *is* *curious* *and* *buſe* *upon* *the* *mat-* *A. D.*
ter of begging, ought to be careful what he takes. And he commands *Nebrid-* *388.*
us, in that year the *Comes Rei Privata* to whom this Constitution is directed,
 to puniſh his own Office, if they make any falſe certificate, or conſent by col-
 luſion to one that ſo begged, from whom he requires, that all thing ſo ob-
 tained ſhall be taken away.

Takes farther
 care for the
 reinforcement
 of his Troops.

57. But being now employed in the War againſt the *Goths*, he ſtill took all
 care poſſible for the reinforcement of his Troops, by ſeveral Edicts iſſued out
 to *Neoterius*. He propoſed rewards to ſuch as ſhould diſcover any that had
 forſaken his Colours; required thoſe whoſe employment it was to take up
 new Souldiers, to do it out of the Regions that lay moſt convenient, and
 with careful choice; and threatens with puniſhment both them if they neglect-
 ed, and the Judges themſelves if they connive at their neglect; and the Pro-
 vincials too if they conſpire with them therein. He commands that the Sons
 of the *Primipilares* follow the condition of their Fathers; and be obliged to
 that ſervice they were bound to. But in caſe they were not called on in
 their legitimate or twenty fifth year, but become obnoxious to ſervices of
 Corporations, he ordains that they continue in the number of *Curiales*; and
 in caſe the *Primipilares* had ſeveral Sons, and left a fair Eſtate, one of them
 he will have obliged to the ſervices of theſe Courts, and the reſt to their
 Fathers Employment. For he had a great regard to Corporations, that their
 Courts and Offices might be ſupplied, from which ſeveral now withdrew them-
 ſelves, and, upon occaſion of the Wars with the *Goths*, and the care he
 took to ſupply his Army, deſerted their Charges and went into the Field. This
 in another Edict directed to the ſame *Neoterius*, he tells him he had diſcover-
 ed; in particular that *Scribes* and *Logographi* of Cities had thither withdrawn
 themſelves, probably to be Actuaries in the Army; but he prohibits ſuch pra-
 ctice for the time to come, telling him, that he purpoſed to ſupply his Troops
 out of ſuch as ſtraggled abroad, out of the Sons of *Veterani* and ſuch as had
 been diſmiſſed, and now minded their own private Affairs, whom he com-
 mands to the Military ſervice, and forbids all occaſion of Excuse. So even an
 Hand he reſolved to keep betwixt his own Concernment of the Army, and
 the intereſt of Corporations. But further ſo careful he ſhewed himſelf that the
 Courts ſhould not be deſerted, that by other Laws made this year, and di-
 rected alſo to *Neotherius*, he commanded, "That if any by birth obliged to
 be *Curiales* had betaken themſelves to the uſeful Body of the *Fabricenſes*, nay
 had got to be admitted into the Order of *Senators*, or to any *Palatine* or
 Court-Employment, they ſhould thence be forced back to the Duties, to which
 they were obliged by their original. And ſtill, as I ſaid, to ſhow his care
 both of his Army and the Corporations, if any Sons of the *Veterane* Souldiers
 had put themſelves into the ſervice of the Governours of Provinces, however
 ſuch might pretend old Age, if he was able enough for military ſervice he
 ſhould be compelled into the Field; but if he was found unable to diſcharge
 that Duty, then to the ſervice of the *Curia*; however, in one of them to be (if
 poſſible) ſerviceable to the Common-wealth.

And for the
 ſervices of the
 Curia.

Incourages
 Military men.

58. Nothing appears from the Laws to confirm what *Zoſimus* writes concern-
 ing this Emperors making ſo many *Magiſtri Militum*, yet that he had a ſpecial
 regard to thoſe Military men, thence ſufficiently is evident. For in this very
 year, did he publiſh a new Conſtitution or *Notitia* of Dignities, of place and
 precedence, whereby he makes equal ſuch as had born theſe Offices, with
 thoſe that had been *Preſecti Prætorio*. And the ſame place he aſſigns to them,
 not only in the *Secretaria* or Courts of the Provinces, and in Extraordinary
 meetings, as *Valentinian* had done before, but every where, indiftinctly, even
 in the *Senate* of *Conſtantinople*, to the *Preſect* of which City, *Reſtitutus*, he di-
 rects his Edict. No other precedence he gives to either ſort, but ſuch as time
 it ſelf afforded; ſo that he who was firſt advanced ſhould take place, ſpeak
 and deliver firſt his Opinion; and this he found himſelf obliged to do from
 reaſon of State, thereby to oblige Military men, of whom at this time he ſtood
 in great need, having ſo much work cut out for them by the *Goths*, *Huns*
 and *Alans*; and the more becauſe many of his great Officers were by original
 themſelves Barbarians. But by ſo doing, he might ſeem to leſſen the dignity of the
Preſecti Prætorio, the Power of whom was in this Age ſo exceeding great; and
 therefore to make them ſome amends, he ſeems to have enlarged it by grant-

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ting them leave to Fine Criminals as far as fifty pounds of Gold, by the Edict lately mentioned, which is rationally thought to have been part of this very Constitution, however the Date of it hath happened to be altered. However, there is extant another Law which is concluded to have been a Parcel of it, whereby those that had borne any of the other great Offices, viz. that of *Quæstor*, the *Magister Officiorum*, and the two *Comites Sacrarum Largitionum* and *Rei privatae*, are in some sort made equal to those that had been *Præfetti Prætorio*. They had formerly been by *Valentinian* preferred before *Proconsuls*, and so by Dignity were *Speſſabiles*; but now by this Law they were taken into the Rank and Number of *Illustres*. But he doth not hereby make them fully equal with the *Præſectorians*, as he had done them that had been *Magistri Militum*, so as if they should make any advantage of Time, or be preferred before them, if they had been first advanced; but certain particulars he mentions wherein they should equal them, as in Acclamations, and being received with the same Honour and Respect in all Companies and Assemblies. The Reason he gives for this Advancement is, that though they had not yet borne the Office of *Præfetti*, yet they were near it, and it was due to them, such being usually preferred to that Dignity; as might be made evident by infinite Examples.

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L. 2. de Quæſtorib. Magistris Officiorum, &c. & L. 1. Cod. Juſt. Eod. tit.

His Respect
for the Notaries:

59. But amongst other more inferiour Employments, *Theodosius* at this time professes the great Respect he bore to the *Notaries*, of whom has been already spoken, as also of their various Employments, out of *Ammianus*. For these were the Clerks that took Notes of what passed in the Emperours Consistory; his Decrees were often by their *Primicerius* recited in the Senate; and they were sent often into the Provinces upon extraordinary and urgent occasions, being usually bred Scholars; and thereupon it is thought they were recommended to the Emperour by *Eutropius* the *Præfetus Prætorio*, to whom this Edict is directed; he being a Person of great Learning and Eloquence. When they had left their Employments either for Age, to take their Ease, or other Respects, the *Numerarii* belonging to the Magistrates, would put them upon Duties relating to the Revenue, as those of *Collectors* and the like, to their great Inconvenience and Molestation. Now as the Rule in Law generally held, that the same Privileges belonged to those that were in actual Employment, and those that were out, but had served in that Relation. *Theodosius* in this Edict extends this Privilege which already belonged to other *Honorati*, to those that served in the Palace: and in Case any *Numerarius* were so troublesome to them, he threatens him with an heavy Fine, and the loss of his Office. But amongst his Concernes, for those that served him in the Palace, he forgot not them who by their Labour contributed to the Subsistence of himself and them, viz. the Farmers of the publick Lands. He revived now a Law made by *Valentinian*, for saving harmless such Persons; and he declares, no Farmer in Possession, shall be turned out through the Importunity of another, having given that Security which of Course such Tenants were to give, by joynt Obligation of other Persons. And at this time his Hand being in, and, as any one looks upon the Laws would judge, being set to do good to his People; by his several Constitutions sent to the *Præfetti Prætorio* throughout his whole District, especially to *Eutropius*, he endeavoured to suppress the great Thefts that were common in the Provinces; and not only them, but such as were as certain, though in a more plausible way, as the unjust Exactions and Violences used by the Governors or Judges of Provinces, and the greater Officers, nay, of the Treasury it self. To this purpose, he made a famous Constitution still extant, and divided into several Laws.

L. 1. de Primicerio & Notariis Cod. Th. lib. 5. tit. 10. Dat. Tuss. 18. Cal. Jul. & L. 1. Cod. Juſt. Eod. tit.

L. 3. de Locatione Fund. Jur. Emphyt. Cod. Th. lib. 10. tit. 3. Absentia Cod. Juſt.

L. 8. de bonis Proscriptorum Cod. Th.

His Care for
the Farmers
of his Lands.

His Clemency
to such as
underwent
Deportation, and
to their Children.

60. By one of these he shewed great Clemency to such as underwent the Punishment of being Banished into Islands, called *Deportation*, by the *Romans*. For whereas by the Law, the whole Estates of such Condemned Persons, were Confiscated, some Portion thereof, he permitted to be allowed for the subsistence of the Offender and of his Children, and Parents (were there no Children) viz. one sixth part, except in Case of Treason, of which, whosoever was Convicted, and thus banished, he would also have him punished with Want, as was wont to be Practised in all places; that Crime being ever excluded from all Privilege and Benefit of Law. Both hence and from other Laws it's evident, that Death was not always inflicted for Treason it self, but sometimes *Deportation* satisfied. As to the Children of such Persons, by this same Constitution he allows them a sixth part of the Estate, of what Sex, Degree or Condition

Sec. 3. on soever they are, although Emancipated, and Grandchildren by a Daughter; the Crime of Treason again excepted; and yet so, as even in that Case as much should be allowed them, as to their Father, had he offended in another sort, and for that been so Banished, viz. a sixth part; a signe of the wonderful Clemency of this Emperour; wherein his Sons refused to imitate him; the horridness of that Crime, as one of them saith, regularly leaving nothing to Posterity; and not only his Successours, but generally his Predecessors were of the contrary Opinion. But indeed this was the natural temper of this Prince, whose Mercy usually shewed in the point of Treason, *Themistius*, about this time, extolled in an Oration he made in the *Senate*; and of his wonderful Clemency towards the *Antiochians*, we may hear hereafter. But in that manner he provided for them whose Goods or Estates were Confiscated. By another, he settled the succession of such, whose Estates were not seized by the Exchequer, although they were put to Death for some offence, and that as he professes according to the Direction of the Civil (twelve Tables, and the *Lex Papia*) and of the *Prætorian* Law; for the *Romans* had a double way of conveying the Inheritances of such as died Intestate, the one by the Civil Law it self, and the other by the *Edict* of the *Prætor*, when Reason required that Equity should interpose and regulate the Rigour of the Law. By this his Constitution he ordained the Estates of such as were put to Death, to descend to the Children of the first and second Degrees entirely, but only half to those of the third, or Great Grand-Children. If there were no Children, a third part of such Condemned persons Estates, should go to their Parents, and the other two be Confiscate. And to the Grandfather and Grandmother by the Fathers side; if the Party had no Father nor Mother, one fourth part; and all these failing, as much to the Brothers and Sisters of the Party, who if of whole Blood, and not Emancipated were to exclude the Grandfather and Grandmother as by the Antient Law they ought to do.

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380.

L. 2. cod. tit.
Abell. à cod.
Jul.

His further
Severity against
Judges
that had been
deprived for
Corruption.

61. By another part of this Constitution, he farther provided against the Corruption of Judges; for, having as we have seen already, this same year, deprived such of all Honour, and degraded them as low as the meanest Condition of the Vulgar, he now took away the Stairs by which they might hope to mount again to their former Dignity, by declaring, that they should for ever be debarred from all, both Real and Titular Honours. And he Commands *Eutropius*, that if any Person formerly Convicted should obtain any such Power or Employment, as might happen through the Emperours not being acquainted with what had formerly passed, and his being imposed on; that in such Case, he should not suffer him to Act or intermeddle; but send and acquaint himself with the matter. This he did, considering that Men of such base and corrupt Principles, seldom grow better if they have any opportunity; however are to be presumed still the same, except there be any Evidence to the contrary, of which it was fit the Prince should be Judge, without having his Hands tied up, if he were pleased to restore any, as satisfied of their Amendment. But we see the power of the *Præfects* was very great, as even in this Case it appears, of Prohibiting a Person to meddle with the Government, though producing the Emperours Commission, as they had Authority given them of punishing such Judges as they found to be Thieves without any necessity of making Report to the Emperour. By this same Constitution he reformed several Abuses perceived to be growing about Contracts of Marriage, Prohibiting that Liberty which some took of ingaging the Affections of Persons, of putting them to trouble and Charge, and then deserting them; such Women as were Guilty of this Inconstancy by the *Roman* Laws being to restore fourfold of the Tokens that they had been presented with. The Law in this point he now regulated, according to the Age and other Circumstances of the Woman; but vigorously reinforced that part of it which related to the Governours of Provinces, or such as had Command, or Authority therein; who thereby were Expressly forbidden to marry, during their Government, any that lived in the parts subject, to their Jurisdiction; because of that Fear, Awe, or Terror which it was supposed they might strike into them. He declares that if any woman under such Circumstances had received any Tokens or Presents; whereas by the Antient Law she might renounce any Contract thereby made, but was of necessity to return the Presents back; that now it should be in her free Choice, whether she would or not return them. And this he extends, not only to the Governour himself, but

L. 2. Al li-
gem Juliam.
Repetundar.
Cod. Th. Abell.
i Cod. Justin.

L. 6. de Spon-
salibus &c.
Cod. Th. lib. 2.
tit. 5. & L. 1.
Cod. Just. cod.
tit. Arhe.

L. 1. de si P. c.
vincie Rellor
Cod. Th. lib. 2.
tit. 5. & L. 1.
Cod. Just. lib.
1. tit. 13.

He Reforms
Abuses in or-
der to Mar-
riage.

Especially of
Governours
of Provinces.

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Sect. 3. his Sons, Grandsons, Kinsmen, Assessors and Domesticks, if he interposed in their behalfs. But in Case, after his Government ended, the Party would agree to it, the Mariage might be consummated, but as now by a new Consent, which during his Power was reputed and taken to be null and ineffectual.

62. By this same Constitution, he endeavoured to prevent the Fraud of Debtors, and the Rapacity of Creditors, appointing what Interest should be paid, and when, for such sums as any by course of Law had been Cast in; but still had his Eye upon Governours of Provinces, by whom he thought the People more oppressed than by one another; and that especially at this time, and he thought he had not yet done enough in the point of Mariage. He further severely Prohibits all having Authority in any Province or place, not only by Threats or Awe, to Compel any Woman to Marry themselves or Domesticks, but any other Person whatsoever, and that under a double Penalty, of fining in ten pounds of Gold, and losing the Dignity belonging to such as had borne their Offices, when out of their Employment; which if they should presume to take upon them, or Challenge, he forbids them coming into, or abiding in the Province they Governed for the space of two years. Such punishment was the Offender to undergo if Marriage followed upon his Attempt; and for prevention yet further, the Emperour prescribes a remedy against such violence, giving the Party so Awed or threatned, Liberty to renounce the Jurisdiction of the Tyrant, if he were the ordinary Judge or Governour of the Province, and betake himself to those of the Degree of *Speculabilis*, as the *Vicar* of the Diocess, the *Proconsul*, *Comes* or *Præfectus Augustalis*, according to the place where it should happen; and there demand Relief. And if the *Vicar* or other such officer made the Attempt, the Ordinary Judge should have the Hearing of the matter; but if both were faulty, then should the *Illustrious* Persons or *Præfetti Prætorio* undertake the Protection of the attempted party. In conclusion, the *Defensores* of Cities, formerly spoken of, are required to take care that the matter be prosecuted in this sort, as also the *Apparitors* of the Ordinary Judge.

*L. un. de usuris
Rei judicate.
Cod. Th. lib.
14. tit. 19.*

*L. un. Si qua
cunq. prædictus
potestate nupti-
as pet. in
te. Cod. T.
lib. 3. tit. 11.
C. L. un. Co.
Just. iud. tit.*

Prohibits Do-
nations to be
made to them.

63. Yet still farther did his Care extend, to protect the Inferiour sort of People from the Awe and Terror they might stand in, in order to their Provincial Magistrates, and the ill Effects following thereupon. By another Law, part also of this Constitution, he permits all Donations to such Persons to be revoked, within the space of five years, whether these Magistrates were Governors of Provinces, of Diocesses, or *Præfetti Prætorio* themselves as formerly had been ordained in case of purchases; nay though they were made but to their Wives, their Children indistinctly of what Degree, Sex or Condition whatsoever, their Parents, Brothers, Sisters, Fathers in Law, Mothers in Law, or Domestick Assessors; for he will not have them themselves only incorrupt, but their Houses and Families also untainted. The five years, within the space of which he gives leave to revoke the Donation, he will have reckoned from the going of such a Magistrate out of his Office, and he permits it to be done without any *Denuntiation* (as the term of Law is) or warning, which was necessary before other Suites or Actions were commenced; it sufficing to prove before the Judge the time when the *Donation* was made. And yet further to this Suite or Prosecution he adds such Efficacy, that the Possession of the things given, should revert to the Donor in such sort as if it had never gone out of his Hands; in like manner as those that had possessed any thing by fraud were compelled to restore it together with all Fruits or Emoluments thence arising. In Case the *Donor* die before the Term be out, he declares that his Heirs shall have Cause of Action against the *Donee*, except the *Donor*, while living, had by his silence confirmed the Donation, by suffering the matter to rest so long till the Heir became emancipated, or out of his Paternal Authority. But we are to understand, that what *Theodosius* here Enacts, and other Laws determin against Donations made to Magistrates, must be understood concerning such as were made and had effect betwixt the living; for by Testament or last Will any thing might be given or bequeathed to those in Dignity, or Power, as well as to the Emperours themselves, which by another Branch of this large Constitution he doth declare, which instanceth in an Inheritance in a Legacy, and a thing left in trust with another Person for their Benefit and Advantage. By another part of this same Law he declares, that if so be, one that was left Heir, or as we say Executor, or succeeded to an Intestate, did once approve of the Will of the deceased, all things therein bequeathed should hold good, although the Testament were not solemn, or so Constituted as the Law required.

*L. quicunque
de iis que Ad-
ministrantibus
Cod. Th. lib. 8.
tit. 15. Abest
à Cod. Just.*

*L. 16. Cod.
Just. de Te-
stam. lib. 6.
tit. 23.*

64. What *Zosimus* writes concerning so many flocking to him with their Complaints,

Sect. 3.

Restrains the
Number of
Messengers
sent up to him
upon Business.

plaints, when he lay at *Thessalonica*, we may well believe to be true, from what we find in another Edict made by him this year, although not at that City, but at *Constantinople*; if *Hadrianople* be not rather to be read. When places in the Countries had any Requests to make, they were wont in those times confusedly to send their Messengers to the Emperour, and more in number than was convenient; to the great Charge of the People and the burthening of the *Cursus Publicus*, which provoked other Princes as well before, as after, to put a Restraint upon this Disorder: Cities of one and the same Province would send up their Requests particularly and by themselves; and this *Theodosius* doth not disapprove, at least not forbid; but how many in Number soever those Cities of the Provinces were, at the general meeting three Messengers only, should be chosen to represent their (particular) Complaints; which was thought sufficient; nay, *Valentinian* the younger afterward would have but two Messengers Chosen for an entire Diocess or a Province, although in former times three might have been sent from one City alone, but no more; by an Edict of *Vespasian*, whatsoever place it was. Now all the Messengers go under the Name of *Legati*, and so are termed in a peculiar Title of *Theodosius* his Code, as well as they who were sent on Errands to Foreign Princes or Nations, which we now more peculiarly call *Ambassadors*; for such more properly are they who are sent from one Sovereign Authority to another, although now Commissioners sent to a Treaty go under this Name also; and this more lately; though (mediately) they also transact with Sovereign Powers. As for Ambassadors sent from the *Romans* to Foreign Nations, their Number often was wont to be three. But to return to *Theodosius*; as by this Law he seems chiefly to have aimed at the Ease of the *Citizens* so by others of this same year, to have consulted the Beauty and Lustre of the Cities. And some need there was, of his so doing; for it's observed, that from this year of which now we write, for seventeen together, till the Reign of *Arcadius* his Son, the Governours of Provinces through the *East*, cast off all Care of repairing publick works or Buildings. This made him both now and afterwards quicken them to it by several Edicts; and this year, when one *Julian* was going to be *Prefect* of *Aegypt*, he made this Charge part of his Instructions, declaring that every Judge that was to be sent into his Province, should repair and restore to their antient Lustre two Parts of three of such Structures as were decayed, either through neglect or Age; and if they would to these add the third part also, they should thereby procure Fame and Reputation, though at the publick Charge. They were greedy enough of Fame and Repute, but they loved to procure it by some new Work, some new Device, which should call them Author, at least Founder; and were wont to neglect what was begun but left unperfect by their Predecessors; To obviate which mischief, this same year by another Edict directed to *Eutropius*, he commands that they begin no new Work till the old ones be repaired, and such as were left unfinished by those that served in the Province before them.

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L. 7. de Legatis & Procuratoribus Cod. Th. lib. 12. Tit. 12. Abest a Cod. Just.

L. L. 20, 21. de operibus publ. Cod. Th. Abest a Cod. Just.

Takes care of
repairing an-
cient Build-
ings.Forbids the
torturing of
the *Curiales*.

65. This Charge concerning the Repairs of Antient Structures, was indeed one of those which of Course were given to Governors that were going to undertake their Provincial Employments; and so was that concerning the Immunity of *Curiales* or Senators of Cities from Tortures, or beating with Plummets, as should seem from another Law directed to the same *Julian* *Prefect* of *Aegypt*, and to be joyned with the former. By this he excepts from the aforesaid Tortures, being due to Criminal Persons, the whole Rank or Order of the *Curia*, and will have every Judge or Governor know, that if either He himself, or his Officers Act contrary to this Injunction, they shall be most severely punished. Therefore he requires Him in particular, that the greatness of the Command considered, he will abstain from corporal Injuries, as he terms them, of the *Curiales*; and to be sure to punish with the heaviest Censure, any of his Officers that shall transgress in this sort. Yet for all this, from an Oration of *Libanius* it appears, that some Governours themselves transgressed in this kinde, and were punished for it; as for instance, *Flavianus* the Proconsul of *Asia* (of whom we may hear afterward) who was turned out of his Place, and another *Prefect* of *Aegypt*, who was cast into Bonds for the violation of this Law, a Law so acceptable and welcome, that *Libanius* prays him to establish Justice by the punishment of such as should infringe it, by which Course many would be encouraged to give themselves to the Service of the Cities, whereas, if he neglected to do it, he would in a manner command them to run away from their Employments. But so kind, we see, was *Theodosius* to Corporations; the Senators whereof could not but be pleased to have their Persons thus secured from the Insolence of Governors, and especially of their Officers; and, if publick spiri-

L. 80. de Curionibus Cod. Th. Abest a Cod. Just.

Vide Gothefr. in Com.

Sect. 3.

spirited, to see their Towns beautified by repairing of such Structures as were gone to decay. And the Emperours indeed were went so far herein to concern themselves, that in their usual Instructions or Mandates given to these Magistrates, they usually ordered the Accounts concernig these publick Works to be allowed. For each City had its peculiar Revenues, part whereof was wont to be assigned to the maintenance of publick works, the Accounts of which they would have allowed, but Prohibit any Salary to be assigned by the *Decuriones*, or greater Magistrates, to any Person, without their Command therein especially signified; whereas, in some Cases the *Decuriones* were wont to allow Salaries, as to a Municipal Professor or Physitian; to Messengers sent to Court, and to the maintenance of such of their own Members as were fallen to Decay. But *Constantinus* forbade any Salary to be given, peremptorily, without the Prince his Command, as his Grandfather *Constantinus Chlorus*, himself, assigned to *Eumenius* the *Rhetorician* his Pension from the City of *Augustodunum*; and *Gratian* when he gave the *Gallian* Cities leave to chuse their Professors, yet would not yield them the liberty of assigning them Allowances at their own Discretion. Yet *Libanius* in an Oration to the Senators of *Antioch* importunes them of that City to increase the Salaries of their four *Rhetoricians* or *Sophists*, by assigning them certain Lands; so that probably the Prohibition of *Constantinus* extends to unusual and Extraordinary stipends; not to the wonted and necessary ones.

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L. de operibus
publicis. Co.
Th.L. de offi. p.
b. n. d. l. c. l.
Th. l. 2. tit.
1. tit.
l. tit.Punishes the
hasty Marria-
ges of Wid-
dows.

66. *Theodosius*, at the latter end of the year, setting himself to the Correction of manners, took notice of the Immodesty of Widdows (amongst other Faults) which were wont to Marry again before the time of Mourning due to their former Husbands was expired. He confirms what the Law formerly had declared against such, that they should be esteemed infamous Persons; and to this adds, that they should not bring as Dower to their second Husbands above a third part of their Estates nor leave them more than just so much by their Testaments. That they shall be Incapable of any Inheritances, Legacies or Benefits from Trusts left by Will, which must fall to the Heirs, and no Benefit thereby Accrue to his Treasury, to which he will have no respect in the business of Reformation of Manners. Further, such a Woman shall loose whatsoever was left to her by the Will of the first Husband, which must fall to them to whom the *Prætorian* Law assigned it; and the Treasury succeed in the last place. And as for such Inheritances as fall to her by Succession, She shall not succeed to any such, or those called Honorary, beyond the third Degree. By another part of this same Constitution, directed to *Eutropius* the *Præfectus Prætorio*, though now separated and put into another Title in the Code, he pronounces such a woman notoriously infamous by the Law, except the Prince be pleased by his Indulgence to wipe off the Biott, whether she had Children or not by her Husband. In Case She had Children, and obtained from the Emperour an Abolition of Infamy, he is willing She shall enjoy it, together with an Exemption from all other punishments, provided She part with half that Estate she had at the time of Marriage, to those Children she had by her former Husband, by a pure and solemn Donation, so as no Profits thereof shall be Exempted; and if one or more of them should dye, those remaining shall succeed the deceased; but in Case all of them die Intestate, then, for Consolation of her misery Contracted by the loss, She her self shall be the Heir.

L. 1. de heredi-
tas. Nuptia.
Cod. Just. lib.
5. tit. 9.L. 1. de qui-
bus causis in-
famia introga-
tur. Cod. Just.
lib. 2. tit. 12.L. 4. Ad sen-
tus consultum.
Tertullianum
Cod. Just. lib.
6. tit. 5.He makes a
favourable
Law in behalf
of Prisoners.

67. This Constitution bearing Date on the fifteenth before New-years Day, we suppose was not made at *Constantinople*, whither *Theodosius* by this time, was scarcely returned from *Thessalonica*. The second day after there, we think we find him by another Law which here we shall not further mention. But to be sure at *Constantinople* he was on the twenty-ninth of *December*, on which we have another Edict directed to *Eutropius*, and full of Clemency, concerning the Apprehension and Custody of Prisoners. Hereby he Commands, that none be cast into Prison without sufficient Ground: That none be sent for from far, without the Accuser have first engaged himself solemnly to undergo the punishment due to the Offence if he do not prove it. That thirty Days time shall be allowed such an one to dispose of his Business, and to comfort and settle his Family before he undertook his Journey, by the ordinary Judge of the Province, or the Municipal Magistrates, to be reckoned from the entering of the Decree; that so there may be no opportunity left to the Messenger to make his Markets out of him, for any Repulse. And when he is produced before the Judge, before whom he must receive his Tryal, he shall have the Assistance of an Advocate, be examined, and understand what is laid to his Charge; which done, in a condition equal with that of his

Vide Chron.
Cod. Theod.L. 2. de exhiben-
dis et trans-
mittendis Re-
s. l. 2. Cod.
Just. cod. tit.Nihil auctoritate
apud eum qui
ad exhibendum
missus est capias
naudivandi.

Sect. 3. his Accuser, he shall abide his Tryal. Being now in Prison, he commands that he " be not there long kept, nor his Tryal protracted, but thereby all occasion be cut " off from Jailors, and Keepers, of making their Markets by procuring to Prison- " ers a speedy Hearing. To this purpose he requires, that the *Commentariensis*, eve- " ry thirtieth day, present to the Judge an Account of the Number, Variety of " Crimes, Order, and Age of the Prisoners; as *Constantinus* formerly had ordain- " ed that they be fully heard within one Month. This he will have done, " or the Office Fined in twenty pounds of Gold: And a lazy, proud and careless " Judge Banished the Province, and Fined also in the sum of ten pounds. These are " the several Laws made this year by *Theodosius*, whom leaving at *Constantinople*, we " must see what was done, in the mean time, by *Gratian* and *Valentinian* in the " West.

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L. 6. de Cultu-
dia Romam
Cod. Tu. 2. l.
5. Cod. Jul.
cod. 12.

Gratian in the
mean time fa-
vours the Na-
vicularii.

68. The first thing we meet with, is a heavy Complaint made to *Gratian* by the *Navicularij* of *Africk*, concerning the Breach of their Privileges granted by former Princes. To put them into heart again, and that *Rome* might not suffer by want of Provisions, in Answer to their Petition, he Confirms what Immunities they had received from his Predecessors. In the first place, he establishes upon them the " *Equestrian* Dignity, which had been conferred on them, both by *Constantine* " the Great, and *Julian*, by Laws made for that purpose; which are not now " extant. And as this, amongst many other Privileges Belonged to that Dignity, " that such as enjoyed it were exempt from Corporal Injuries, as they were term- " ed, that is, from Examinations by Stripes and Tortures, *Gratian* confirms it also " to them, threatening all Judges with grievous punishment, in case they treat- " ed any *Navicularius* in so severe a sort; and also their *Apparitors*, whose duty it " was to put them in mind of their Office, when they saw them transported with any " passion. In the third place, he delivers them of the Fear they were in, of being " forced to the Services of Corporations; agreeing with them in what they urged in " their Petition, that in pressing necessities, such as already had been bound to the " Services of the *Curie*, were wont to be discharged, and added to the Body of the " *Navicularij*. Besides this, he establishes their Antient Immunity from the Burthen " of the *Lustralis Collatio*, and Custom for their Goods; which favour was granted " but to few Persons; but whereas some of them might abuse this their Liberty, and " defraud the Publick, by concealing the Goods of other Men, and giving opportu- " nity to Merchants to steal the Customs of their Wares, he charges the Judges " concerned in such matters, to take especial Care, that no such ill Use be made " of his Indulgence.

L. 16. de Na-
viculariis Cod.
Th. Dat. Trivi-
ris 8. Id. Febr.

69. In the same Constitution, he abates the Rigour of a Law made by his Fa- " ther, which required, that half the Number of the Mariners of a Ship, should be " subjected to Examination, in Case of Shipwrack, and the Death of Passengers caused " thereby. Moved by their Report, he permits that but two or three be examined. " But in Case the Master of the Vessel were living, the truth should first be inquired " of from him, as supposed the best to understand all matters of such Concernment. " If so be he had miscarried, Choice was to be made of other Mariners; and if all " were lost, Inquiry was to be made among the Relations of the *Navicularii*, and " he appoints a very large time, in which this Tryal shall be terminated, viz. five " years; one, or two having been the usual Term for such Business. Besides these " Acts of Grace, he takes Order also, that what had by the Laws been allowed them " for loss of the Grain by Leakage, or other Accidents, should not be diminished by " those Officers, whose work it was to oversee the Transportation of Corn. He de- " clares at what time of the year they shall begin to transport the publick (or Fis- " cale) Grain, and when they shall leave off their Navigation. For of old, be- " fore the Invention of the Compass, there was wont to be some definite time, for " opening the Sea, and, as it were, for the shutting of it; for so both were termed " by the Antients, who were wont to Celebrate both these times by solemn Sports " and Merriments. In Spring, you must know, they were so bold, as to adventure " forth; and yet they accounted it but doubtful and dangerous to stir out before " Mid-May. Now *Gratian* will have the *Navicularii* take a middle Course; viz. " to begin the first of *April*, being it was not so late as *May*, and nearer to Summer " than was *March*. And whereas the Seas were not said ordinarily to be shut up " till the eleventh of *November*, he will have Navigation (with the Fiscale species) to " cease all this Month, and part of *October* also; for he appoints the time of freight- " ing the Ships to extend to the first of *October*, and thenceforth Navigation to con- " tinue till the Ides or fifteenth of the same Month inclusive; thereby allowing fif- " teen "

L. 2. de Nau-
fragiis Cod. Th.
lib. 13. tit. 9.

Sect. 3. teen days for Sailing from *Africa*, and unloading in the Port of *Rome*; five thousand Furlongs being reckoned for the Breadth of the Streight betwixt this Port and that of *Carthage*. But afterward, this time of Navigation was enlarged, as we may see in convenient time. In the last place, *Gratian* will have the Number of the *Navicularii* increased, by calling all men to the Function (if need be) that are not employed in publick Business.

A.D.
388.

He makes
some Laws in
order to War.

70. We do not Read of any Expedition made by *Gratian* this Year; but that he apprehended the Occasion of one, and probably feared the motions of the Barbarians towards the North, we cannot but believe from the Preparations he made this very Spring. For being now at *Triers* in *Gall*, he issued out Orders to the *Præfect* of *Italy* (to whom he gives the Attributes both of *Vir Clarissimus*, and *Illustris*) for an Imposition of extraordinary Services and Payments, and amongst the rest, for levying of men, and provision of Corn and Horses in *Italy*, and the *Suburbicarian* parts. But from these extraordinary Services he will have secured the Tenants of his *Patrimonial* Lands, their Actors or Stewards, and such as possessed them in perpetual Right. And from the finding of *Tirones* or New Soldiers, he also privilege the *Suburbicarian* Parts, as he terms them, which were often befriended, and as we may believe, for the sake of *Rome*, the Diocess of which they were accounted. The Corn and Horses he commands to be hastened in such manner, as having Authority over these parts of *Italy*, and the *Suburbicarian* Provinces; for although *Italy* and *Rome* it self had fallen to the share of *Valentinian* his Brother, who himself made Laws also this Year, though hitherto not of that Consequence so as we think fit to trouble the Reader with them) yet he being still very young, he governed both those quarters, and in *Gall* also. As this Law provides for the raising of Soldiers; there's another as necessary, which bears Date some four Months after, made against their running from their Colours; inflicting punishment on such as should conceal such Fugitives, and proposal of Rewards to those that would discover them so offending. The Stewards or Managers of Lands offending in this point, it condemns to no milder a Death than that of Fire; and the Lords of such Estates it deprives of such Grounds, as by their Design afforded them Lurking-holes, according to the ordinary Custom of forfeiting Lands by procuring, or admitting unlawful things to be done upon them. As for the Discoverers, if Slaves, it rewards them with freedom; if free, and of ordinary Condition, with Immunity from Civil Employments; nay the very Offender, if he make himself known, it requites with Impunity; but inflicts Death upon him that lies concealed; and severe Punishment upon Governours of Provinces and their Officers, if Conniving. Now this Edict is as much to be ascribed to one that has already raised an Army, as the other immediately preceding to him that is about making of Leavies; so that we can see no Reason why Learnd *Gothofred* should imagine *Gratian* to have been Author of that, but *Valentinian* of this. The Proposing of it at *Rome*, can no way evince it; for the Reason he himself alleages, why the Eldest Brother exercised his Authority in *Italy* and in that City.

Mement in L.
12. de Extrac-
dinaris &c.
Cod. Th. ad
Theod. in um
Com. R. P.
Dat. 15. Kal.
Apr. Avest. a
Cod. Just.
Emphyteutica-
vii.

Atiores posses-
sonum.
L. 4. de Deser-
tor. Cod. To.
lib. 7. tit. 18.
P. P. Id. Jul.
Roma. Et L. 1.
Cod. Justin.
cod. tit.

71. The following year, being the CCCLXXXI of our Lord, and the sixth of *Valentinian* the second, had for Consuls *Fl. Siagrius* and *Fl. Annus Eucherius*. The *Præfecti Prætorio* mentioned under *Theodosius* were *Entropius*, *Notherius*, and *Florus*; and *Syagrius* under *Valentinian*. *Gratian* and *Valentinian* made their Abode at *Milan*, or *Aquileia*, and *Theodosius* at *Constantinople*, till near the middle of *July*; toward the end of the year he removed from *Heraclea* to *Adrianople*, but returned back to *Constantinople* in the same Month of *September*, and there continued all the rest. About this time it is that *Zosimus* tells us how *Gratian* sent one *Vitalianus* to Command the Legions of *Illyricum*, a man no whit able to sustain any difficult or dangerous Enterprize. While he there lay, two Parties consisting of so many German Nations, beyond the *Rhine*, of which one was headed by *Fritigern*, and the other served under *Allothus* and *Safraces*, so pressed upon the *Galls*, that they constrained *Gratian* to give leave, that on condition they would quit the *Gallick* Regions, they might pass the *Ister*, and bestow themselves in *Pannonia*, and the upper *Mysia*; and this he granted out of his earnest desire to be rid of them, by reason of their continual Irruptions. They, to improve the opportunity crossed the River, and through *Pannonia*, resolved for *Epirus*; and passing over *Achelous*, to fall upon the Greek Cities; but, in order to this, *Athanarich* the chief of all the Royal Bloud of *Scythia*, they concluded was to be removed out of the way, that they might not leave an Enemy at their Back. Upon him they fell, and easily drove him out of those places which he held, who

A.D.
381.
Fl. Siagrio
Fl. Annus
Eucherio
Coss.

Athanarich
driven by the
Germans out
of his Coun-
try.

nefs.

ect. 3. speedily betook himself to *Theodosius*, but lately recovered of a dangerous Sick-
ness. The Emperour kindly received him, with all the Barbarians that accom-
panied him, going out of the City to meet him, at a good distance: And
the Mandyng not long after, he Buried him with Royal Pomp, and so great
Magnificence, that all the Barbarians being astonished at the Stateliness of the
Funeral, the *Scythians* returned home, resolving no more to molest the *Romans*,
so greatly did they admire the goodness of the Prince; and such as came over
with *Athanasius* set themselves diligently to keep the Bank of the River, and
a long time hindred all Incursions from being made into the *Roman Territories*.
Thus much writes *Zosimus* concerning that *Athanasius*, who though he preten-
ded his Father had made him swear, that he would never set Foot on *Roman*
Ground; yet afterward laid his Bones on *Roman Earth*, coming to *Constantino-*
ple on the thirteenth of *January*, and there dying on the twenty-fifth of the same
Month. We see by this Story of *Zosimus*, how the *Germans* pressed upon the
Gallick Nations, and about the same time that the two Laws lately mentioned
concerning the Raising of Men and Provisions, and against the concealing of
Fugitives, were made; so that we need not seek for any other occasion than this,
nor any other Author than *Gratian* himself.

72. But, *Zosimus*, proceeding in a reasonable good humour, tells us, that at the
same time some other things happened luckily to *Theodosius*. For he overthrew
in Battel the *Scyri* and *Carpadocæ*, which were mixed with the *Huns*, and compel-
led them to repass the *Ister* into their own Countries. Now again the Soldiers
began to reassume their former Courage, and seemed to receive hope, notwith-
standing the mischiefs that had formerly happened; the Husbandmen were incou-
raged to renew their Labours; there being free undisturbed Pasture afforded to
Flocks and Herds. And now the Historian condescends so far as to tell us that in
this manner *Theodosius* seemed to heal the former maladies of the State. And he
adds, that *Promotus* at this time commanding the Army which consisted of Foot
in the Province of *Thrace*, fell upon *Oedothens* who had gathered together a vast
Army, not only out of such Nations as Bordered upon *Ister*, but others most re-
mote and unknown; and by this time was passing the River. But *Promotus* met
him in his Passage both with his Foot on Land, and Boats upon the Water, and
made so great Slaughter of his Men, that he filled the River with dead Bodies; and
the slain that lay on dry Ground could not be numbred. What *Zosimus* tell us
of the success of *Theodosius*, is by others in general terms attested, and especially
what he writes of the Clemency and goodness of his Nature, concerning which we
hear enough on all Hands. By the force and efficacy of this Weapon it was, not
by *Garrisons*, *Archers*, or Armed Men, as *Themistius* tells him, not by *Armenians*
or *Spaniards*, or by multitudes of Armed *Horses* that he extinguished the *Scythian*
Flame; for it went out of it self, by reason of his Prudence and good Advice.
This is a Testimony given by one *Pagan* to another, to which if we may add what
is further said by an *Historian* of these same times, of our own Profession; He
writes further, that all the Nations of the *Goths*, by *Zosimus* termed *Scythians*,
after their Kings Death, beholding the Vertue and Mildness of *Theodosius*, gave up
themselves to the *Roman Empire*. That in those days also, the *Persians*, who had
sufficiently insulted for their Victory over *Julian* and other Emperours, and their
late putting of *Valens* to flight; sent Ambassadors on their own Accord to *Constan-*
tinople, and in a suppliant manner desired Peace. whereupon that League was made
of which all the East, saith he, to this day, with so much Tranquillity, reaps the ad-
vantage. So he protected the Empire from its foreign Enemies. Now let us see
how by Enacting wholesome Laws, this year, he contributed to this Protection, and
further corrected the inward Distempers thereof.

73. To the protection of the Province he contributed by publishing an Edict of
the same import with that of *Gratian*, lately mentioned, against such as harboured
the Soldiers that ran from their Colours, imposing the same punishment upon the
Stewards and Agents, as also the same penalty upon the Owners of the Lands; and
this we may guess was done in Order to the *Scythian* or *Gothick War*, which, for
these three years, continued, notwithstanding the industry used by the followers of
Athanasius upon the Banks of *Ister*, which *Zosimus* mentions. The Imperial Autho-
rity could not support the State except it was likewise supported by the Revenue; but
this was lessened by some Covetous persons, who, possibly encouraged themselves in
their fraudulent practices, by hope of Impunity conceived from the Emperours Cle-
mency. For we find that at this time it was become too frequent to cheat the pub-
lick

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Orat. 6.

Orosius lib. 7.
c. 34.L. 5. de deser-
tationibus Cod. The-
od. Dat. 15. Kal.
Febr.He makes se-
vere Laws for
indicating
his Revenue
from gross
Abuses.

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lick, even by cutting down Trees and Vines, thereby to pretend Poverty and evade the Tax, in the Books whercof was usually registred what Trees were in a Field and what or how many Vines in a Vineyard. "This Fraud he thought fit now to punish by no less a Censure than of death and confiscation of Estate; with a caution not to trouble any Person that used that course meerly for the improvement of his Grounds; which severity, however proper for the cheats of this present time, yet was thought too great to be continued, and therefore though the Law be taken into *Justinians* Code, yet the penalty is changed from Death and Confiscation, to such punishment as the Judge, having cognisance of the cause, should think fit. There was another Abuse committed betwixt such as managed the Publick money; and other persons who were wont to borrow it of such Officers; which proving very inconvenient in draining the Treasury, so as it could not suffice for the publick charge, he forbids his Money either to be lent or borrowed. "Such as should borrow it either upon Bond or word of mouth, he punisheth with confiscation of Estate and perpetual Deportation; and those who under Notion of publick Creditors should either lend or give it, with no less than Death. This bears date on the one and twentieth of July, from *Heraclea*, whither he removed from *Constantinople* upon occasion, as it's thought, of the War with the *Scyri* and *Carpodace* mentioned by *Zosimus*. He took further notice this year, that the miserable Provincials were harassed and compelled speedily to pay their Taxes; and yet notwithstanding, nothing or but little, often time came to the Treasury, by reason that the Officers belonging to the Revenue trafficked and made their own Markets of it. "He inflicts death upon such as should so intervert the money, and upon Judges or Governors of Provinces; except after the receipt of it, by their Officials they signified that it was committed to the publick Custody at such a distance as was usual. And if the money were kept ten days longer by the Officers of the *Comes Largitionum*, or those whose work it was to convey it, they should fine in two hundred Parts of the value of the Summe.

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381.L. 1. de Censuribus Cod. 7
lib. 13. tit. 1
& L. 1. de Censuribus Cod.
Just. plurimum
interpolata.L. 2. de His
qui cum Dispensatore, &
Cod. Th. lib.
10. tit. 24.
Dat. 12. Kal.
Aug. ad Paul.
dium Com. S. 1
& L. 2. Cod.
Just. 200. tit.L. 3. Cod. Th.
cod. tit. Abi
a Cod. Just.
Nundinatione
conjugitur.L. 10. de Tir
nibus Cod. Th.
Dat. Non. Sep.L. 84. de Decurionibus Cod.
Th. P. P. 1. 2.
thagine 15.
Kal. Mart.
Abest. a Cod.
Just.L. 5. de Honorariis Codicillis Cod. Th.
lib. 6. tit. 22.
Dat. 3. Kal.
April. L. 2. de Proximo, & c.
Cod. Th.
L. 2. de Primario & Notario Cod. Th.
Honorarios
equales utantur,
licet tempore posterioribus cedere debere.Against the
Murci.Valentinian or
Gratian makes
a Law about
Elections in
Corporations.

About Precedence.

74. Being removed from *Heraclea* to *Adrianople*, he could not, but, in his preparations against the *Scythian* Nations, take notice, that it was a thing so common in *Illyricum* and these Tracts for the Thumbs of men to be cut off (whence as we said before, they had the name of *Murci*) that, almost incredible though it be, the Provincials could scarcely find any to serve in the Wars, but those Fellows that were so mutilated. This he observes in an Edict directed to *Eutropius* the Prefect, to whom he gives order "That such *Murci* should not thereby escape what they thought to avoid; but that it should be free for the Provincials at the time of finding new Soldiers to present him with two of them in the room of one unmaimed, for he will force them to sustain the burthens and labours of warfare; but be kept from the Dignities and Emoluments thereof. While *Theodosius*, in this manner, employed his time in the East, *Valentinian* in the West, concerned himself for the Corporations in *Africk*, by a Law directed to *Camenius* or *Carterius*, the *Vicar* of that *Diocess*. There were some Disputes raised about the manner of chusing the *Duumviri*, and other Officers; as to which he declares "That the usual Custom in the first place be observed, of having two parts of three of the *Curiales* present at such Elections. But it was objected that four sorts of men possibly might not be present at such times; as some by reason of sickness, others of old age; some were Clerks or in Orders, and others were absent, and perhaps had deserted their Stations: in Answer to all which he resolves "That in the reckoning of two parts of three those that were absent should not be comprised; but it should be understood of two thirds of those who were not letted by any of the four reasons. Not long after the date of this Law we find *Gratian* settling the matter of Precedence betwixt those that had obtained Honorary or Titular Dignities by Codicils, or Letters Patents, and such as had really executed the Offices to which such Honour of due belonged. He distinguisheth betwixt those that served in his Court or Palace, and them that having had no employment there, had by begging, by making Interest, or otherwise obtained such Letters, whereby the place of a *Proconsul*, a *Vicar* or *Consularis* was conferred upon them. Now in reference to those that were out of the Palace, he confirms that otherwise known and notorious Rule, that meerly Titular, or Honorary Dignities should, though seniors in time, give place to those, that had really been possessed of such Offices.

75. But

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75. But as for his own Palatine Officers, if they, as for Example a *Primicerius* of the *Notaries*, should part from the Consistory, or he who immediately followed him, as the *Tribune* or *Notary*, or other *Notaries* and *Tribunes*, or *Domeſticks* and *Notaries*, and obtain by *Codicils* the Dignities aforeſaid, they ſhould be preferred before ſuch as had exerciſed ſuch places, if ſo be they were of more ancient ſtanding. In like manner he reſolves that the *Proximi* of the *Scrinia*, and the *Magiſtri Diſpoſitionum* ſhall be ſo equalled with thoſe of the order of *Vicars*, that if they firſt were diſmiſſed out of the Palace, with this honorary Dignity, they ſhall precede others who had really diſcharged this place and Truſt. But, as to the *Notaries*, we are to know further, that the *Primicerius* and *Secundocerus*, at their diſmiſſion, were preferred before *Vicars*, and made equal to *Proconſuls*; the other *Tribunes* and *Notaries* were made of the ſame Rank with *Vicars*; and the *Domeſticks* and *Notaries* (for there were theſe three Ranks amongſt them) with *Conſulares*. This ſame year *Theodoſius*, as by conſent, made two Edicts concerning the ſame Subjecte, one whereof being next in order in the Code to that made by *Gratian* concerning the *Notaries*, differs little from it, but only in this “That he will have the Dignity of the *Primicerii* to have its original from the very time of their entering the Office of *Primicerius* and *Tribune*. As alſo that he will not have the *Prætorian Tribunes* and *Notaries* to be taken for Perſons of the ſame Rank and Quality, as to be ranked with *Proconſuls*, but in the next Degree with the *Comites* of the *Eaſt*, or *Egypt*; for theſe two were next in Degree to the *Proconſuls*, as alſo the *Comes* of *Pontica*, but ſuperior to all other *Comites*, *Duces*, *Vicars* and *Conſulares*. Now the *Tribune* of the *Prætorian Notaries* was the ſame thing amongſt the *Notaries* of the *Præſecti Prætorio*, as the *Primicerius* now ſpoken of amongſt the *Notaries* of the Prince. In like manner next in the Code to the Edict of *Gratian* concerning the place of ſuch as had without the Palace by Letters obtained Dignities, we find one of *Theodoſius* immediately following, and concerning the ſame matter to the ſame purpoſe. “For he will by no means ſuffer ſuch as lie in the ſhade, and rather by favour than any good deſert, have obtained Honorary and Titular Dignities (ſo did not they that ſerved in the Palace) to be ranked in the ſame degree and quality with Perſons who by their Actions or worthy diſcharging of their Employments had commended their memories to Immortality. The laſt Edict which the Code preſents us with this year is another of *Valentinian*, to conſtrain ſuch as were bound to make an Annual payment of or for Proviſions to the City of *Rome*, to diſcharge their Duty; or- daining “That if they paid it not within the year, they ſhould forfeit as much more, and if afterward they delayed, fourfold as much. For it is to be known that certain Provinces paid a yearly Tribute to the Treafury or Chamber of *Rome*, with which Corn was bought in *Spain* and *Ægypt*. The Tribute was wont to be behind, and therefore, the Poſſeſſors of the grounds were intended to be quickned up by this Conſtitution.

Valentinian
concerns him-
ſelf for furni-
ſhing Rome
with Neceſſa-
ries.

A.D.
381.

L. 3. de Pri-
micerio & No-
tariis Cod. Th.
Dat. Conſtanti-
nop.

L. 6. de Hono-
rariis Cod. Th.
Cod. Th.

L. 18. de An-
nuo & Tributis
Cod. Th. Abſt.
à Cod. Juſt.

Chron. Cod. Th.
ad h. An.

A.D.
382.
Fl. Anto-
nio &
Fl. Siagrio
Coſ.

Theodoſius re-
ſtrains liberty
in Apparel in
three ſorts of
men.

76. The CCCLXXXII. year of our Lord had for Conſuls *Fl. Antonius*, and *Fl. Siagrius* the ſecond time; it being the ſeventh of *Valentinian* the ſecond, and the tenth Indiction. The *Præſectus Prætorio* under *Theodoſius* was *Florus*; and under *Gratian* and *Valentinian*, were *Severus*, *Siagrius* and *Hypatius*: *Proculus* was both this, and the former year, *Comes* of the *Eaſt*, and *Palladius* was *Præſectus Auguſtalis* of *Ægypt*. *Theodoſius* the Emperor continued this year at *Conſtantinople*, and there, on the one and twentieth day of *February* intombed the Body of *Valentinian* his Predeceſſor. In the beginning of the year he conſidered of an uſeful and material point for the keeping of good Order and Decorum amongſt the People, viz. what ſorts of Clothes were fit to be worn in this City; particularly by *Senators*, *Officiales* and *Slaves*, who were wont, by promiſcuous and common Uſe of Garments, to make themſelves little differ in appearance both from other Perſons, and amongſt themſelves. This laudable Reformation had been formerly and ſeriously thought of by *Alexander Severus*, who purpoſed to aſſign to all Ranks and Degrees their ſeveral Habits, that they might thereby be known and diſtinguiſhed; eſpecially to put a mark of diſtinction upon *Slaves*, to prevent all Sedition by reaſon of them; and that they might be diſcerned from Perſons of Quality and of ingenuous condition. But the Project did not pleaſe *Ulpian* and *Paulus*, the great Lawyers of that Age, who alleaged that it would give occaſion to quarrels, if men were, by ſuch marks, made liable to Affronts; whereupon, that Emperor contented himſelf with cauſing thoſe of Equeſtrian Rank to be diſtinguiſhed by the kinds of their *Clavus* or Stulde; and per-

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mitting old men to make Use of *Penula* or Cloaks, Mantles, or a kind of Garment only proper for a Journey and bad Weather, but forbade Women to wear them in the City, though in Travelling they might do it with Allowance. But, whatever *Ulpian* and *Paulus* might think, most indecorous both it was and is; that all Persons should confusedly wear the same Apparel, that a Slave or Footman should not be known from his Lord or Master, nor a Kitchen-wench from her Lady. In the best times Governours have been careful to restrain extravagancy in this kind; neither hath such great Inconvenience followed by Affronts offered from one sort of Persons to another; for Slaves and inferiour Persons may be known by other tokens; as by following their Masters, and by servile works about the Streets, if any have such desire to quarrel with them.

A.D.

382.

Senators.

77. Therefore both in *Old Rome* and in the *New*, or *Constantinople*, certain Persons were distinguished by their Apparel; so as they might be known when one met them; which was by commanding or permitting certain sorts of Cloaths to be worn by certain Persons, and prohibiting the Use of them unto others. Both of these are enjoined by *Theodosius* in his new Law to the three sorts of men before mentioned. As for *Senators*, the wearing of some Apparel is forbid them; the Use of another sort is permitted them; and in a certain Case necessity of one kind of Habit is enjoined them. It was grown a fashion now for *Senators* and *Gentlemen* to wear the *Chlamys*, or Souldiers Coat in the City, either for that they thought it more gentle or less cumbersome than the Gown; "but for as much as it is was the Military Habit, he commands it to be left off, and that in the City, which was the Metropolis or Head of the Eastern Empire, in a time of peace, the Robe of Peace and Civil Habit, viz. the Gown or other civil Garment should be worn, as well in the Morning as other times of the day," though the Senators thought they might, when they went to give the Emperor good Morrow, appear in that sort of Garb. "But hereby he doth not infringe their liberty of wearing the *Chlamys* out of the Town, and neither forbid it the *Palatine* Dignities or Officers which had been long wont to wear it in the City. Together with the Gown he will have *Senators* known by the *Colobium* and *Penula*. *Colobium* was a short Coat without Sleeves, or else such as reached not to their Elbows, which as well as Shoes, it was not lawful for Slaves to wear; and besides it was studded or wrought with Purple. *Penula* was a sort of Cloak, Mantle or great Coat, with an Hood or Capouche made of coarser Cloath, and fit only for cold and rainy Weather, as the *Colobium* for fair and serene, and therefore within the City the Emperor permits them the Use of it, which came first out of *Greece*, where it was used in these Cases as well as in Travel. In *Rome* it was first worn in wet weather by the *Tribuni Plebis*, and from them came shortly to be taken up by other Persons, at the sight of Plays and at Funerals, and as warm and convenient by old men; to whom *Alexander Severus*, as we said, permitted the Use of it; but forbade it women except in a Journey. Then at length came it to be the common Wear of all that so pleased; especially of *Senators*, who, as their *Colobia*, had also their *Penula* distinguished by Purple. These two kinds of Cloaths they might wear in the City without the Gown; but he expressly commands "that in the Senate and in places of Judicature the Gown shall be used, and the other thrown off, when Senators were either summoned or have any Cause to be tried." In former Ages all *Romans* were known by the Gown, it was a *Gens togata*. But they became weary of it by degrees, and *Senators* would often appear in the Senate-House in their Purple *Penula*. *Adrian* endeavoured to bring both *Senators* and *Equites* to appear always in publick in their Gowns, except they came from Supper; but foreign Fashions and new Dresses got such ground, that *Theodosius* was well content, if in the Senate-House and Courts, he could but restore this grave and ancient Habit.

L. de Habit.
quo uti oportet
intra Urbem
Cod. Theod.
14. tit. 10.
Abest. hic ti.
à Cod. Justin.

A κολοβός
cuytax muti
lus, truncus.

Officials of
Judges.

78. The next sort of men he endeavours to reform are the *Apparitors*, or the *Officials* of Judges, or publick Ministers; to whom he assigns three sorts of Garments. The first is an Inward Caslock or Coat, which he will ever have girt with a Girdle, as was wont of old to be the fashion for such men, and indeed all others; especially when they went about any serious business. Provided they were but thus habited underneath, he allows them the Use of the *Penula* above; but then they must also wear upon their Breast a *Pallium* or Breast-cloth of divers colours, thereby to make known their Condition. For in Garments of divers colours, publick Servants and Officers were wont of old time to go, and not much above an hundred years since, by an Arrest of the Parliament of *Paris*, it was decreed that

Bai-

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380.

Sect. 4. Bailiffs should serve no Processies, or Writs, except so cloathed; a show of which we retain still in *England*, in the Coats of the Officers, or Servants belonging to our *Serjeants at Law*, who attend them first to *Westminster-Hall* in their solemn passage through the streets; and afterwards also for some time, in party coloured Coats. In the last place he regulates the Habit of *Slaves*, which was usually wont to be distinguished from that of other Persons. "He forbids them the Use of other Clothes wont to be worn by persons of free Condition, only permits them the Use of those called *Byrrhi* and *Cuculli*; which though not properly belonging to them, yet were, it seems, accounted the meanest, and vilest sort of Wears. The *Byrrhus* was a sort of Close Coat, for its straitness and uneasiness much despised; and the *Cucullus* was not that Covering of the Head, Cowl or Capouche, which hath more lately gone under that Name, but a mean and coarse covering, though with such a Capouch set to the Neck of it. Now for the penalty (without which a Law is without a sting) he will have such Senators as neglect to observe it, deprived of their Senatorian Dignity, and of power to sit in the Senate; and forasmuch as he thinks the Condition of Officials, and Slaves not capable of shame, he subjects them to the pain of banishment. And whereas the *Censuales* of the City, or the Officers under the *Magister Censuræ*, as we have seen already in the Case of Students, were the Keepers of publick Decorum and Decour; he imposeth a Fine of Twenty pounds of Gold upon their Company; if knowing any to transgress this statute, they reveal it not, whither out of connivance, or by money bribed to hold their peace.

Slaves.

He becomes more severe,

Against Senators that had been *Curiales*.Against *Agentes in Rebus*.And *Numerarii*.

79. But for all this, so mildly did *Theodosius* behave himself, that thence ill disposed people still took occasion to defraud the Publick, and abuse his Clemency. When they owed Money or Tribute to the Treasury, they procured from him Receipts to the Officers, whereby respite was granted for payment of the Debt; of which inconvenience, he became now so far convinced, that by an Edict he declared all such Receipts to be Void and Null. And now, whether he resolved to be more severe, or was put upon it by *Proculus*, the *Comes* of the East, against whose Cruel and Tyrannical Disposition *Libanius* inveighs; or else induced thereto by the great Regard he had to the good and emolument of the *Curia*; he declared by another Edict, directed to the said *Proculus*, that all such as had within Twenty years, from the tenth Consulship of *Constantius*, and the third of *Julian*, been advanced from *Curiales* to the Senatorian Degree; should either be compelled to perform the Services due to the *Curia*, or if they had already discharged them, to substitute some in their Rooms, to represent them to the said Courts; which Law was purposely designed for the Corporation of *Antioch*. About this time, he seems to have received some complaints against the *Agentes in Rebus*, the Rapines and adulteries of which sort of men, as we have formerly seen, were frequent; which caused him to give directions to *Palladius*, the *Magister Officiorum*, for the careful choice of them, and great caution in their promotion. For their first Reception he will have none admitted, though he come with the Prince his Recommendation, without due Inquisition first made into his Manners, and Original; and that in the presence of the major part of the *Schola*, or Company. Then for their Promotion, that such as are received be not promoted to the first step of Preferment, or that of Horsemen, till after five years service, wherein they have been imployed in frequent Missions. And the Promotion to each Degree as they fall in Order, must not be *per saltum*, as neither without the approbation, and consent of good and honest men. His hand being in, this year for Reformation, he extended it from that of the *Agentes in Rebus*, against the Insolence, Covetousness, and Rapacity of the *Numerarii*, whom he permits not to adore the People, or to come out of their Offices, till they have spent full three years therein; whereas before, two years sufficed to that service. But when they were out, they aspired to Higher Dignities, and thereby escaped that strict Examination, and Inquiry, which even by tortures there was need to be made into their Manners and Deportments, which were often so bad, that instead of these three, five years were afterward required of them, within which they could not forsake that station, nor make a step into that of *Domesticks*, which they so much desired. This he did for the Quiet of the people; having for their ease, before this, Ordained that of these *Numerarii* (or *Tabularii*, as they are also called) should be Ordained two in every Province; whereof one should take the Accounts of such matters as fell, or belonged to the Chest of the *Comes Rei privatae*, and the other, those appertaining to the other Treasurer, or

L. 6. de Diversis Receptis Cod. Th. lib. 1. tit. 2. Dat. Const. 7. Kal. Mart. ad Florentinam, P. R.

L. 90. de Decurionibus Cod. Th. Dat. Const. 8. Id. Martis Abest à Cod. Just.

L. 4. de Agentibus in Rebus Cod. Th. Dat. Const. 12. Kal. April. Abest à Cod. Just.

L. 13. de Numerariis Altabis &c. Cod. Th. Dat. ad Florentinam, P. R. Const. 18. Kal. Octobr. Abest à Cod. Just.

L. 12. Fod. tit. Cod. Th. Dat. Const. 3. Kal. April. Omnibus Recloribus Pro in Eram &c. L. 2. Cod. Just. Fod. tit. Comes

- Sect. 3. *Comes Largitimus*, that all Confusion might be removed, and this under a " great penalty he enjoined all Governours of Provinces to be observed, the Edict " being to them directed. In Conclusion, to prevent any mischief, while they " were in the Provinces, he forbade their buying any thing, or making any o- " thier contract. A. D. 382.

Forbids *Paraganda* of Gold

80. Another extravagant fashion in Apparel he reformed about this time, where- with whole Patrimonies were exhausted, both by Men and Women. There was a sort of Lace, or border called *Paraganda*, sometime made of Linnen, sometime of Silk, or of Golden Twist; which by former Emperors had been permitted to be worn by Tribunes, and Officers of the Army; and afterwards was used by Cha- riot-drivers at the *Circensian* Games in the time of *Constantius*: Women delighting also much to be seen in this kind of Dress. But *Valens* taking notice of the Abuse, had forbidden the Use both of those of Gold and Silk, as well to Women as to Men, and would have them made only in his own *Gynæcia* or Work-houses: And now *Theodosius* renewed the Prohibition, as to these golden *Paraganda*, both in Coats, (*tunicis*) and in Linnen Garments; so expensive and Gaudy they were. For we may with as much reason, derive our word *Gaudy* from the *Parthian Pa- raganda*, as the *Spaniards* do their *Brocado*, and the *French* their *Broche d'or*; and with much more. Thus our Emperor laboured to Correct the Disorders of the times; but still had his Eye upon the Governors of Provinces, upon whose De- meanour the good of the People subject to their Jurisdiction did chiefly depend,

Ordains that the Sentences of Judges be Written.

as to the Administration of Justice and other matters. To make their Sentences in Judicature more solemn and considerate; he renewed the order made by *Valentinian*, or brought it into the East, that they should ever be written, and out of writing read, or pronounced, though given by the greatest Persons, the Illustrious *Præfets* themselves, to one of whom, *Clearchus*, he directs his Mandate; telling him, *it is fitting that his Highness obey his Imperial Laws*. But at this time was discovered to him how one *Natalis*, formerly *Dux* of *Sardinia*, had (probably during the Reign of *Valens*) wronged and spoiled the People of that Province, and it seems, was got away before the complaints of the oppressed could reach the Ears of those to whom it belonged to redress such grievances. *Theodosius* considering of the matter, resolved it was the best course to send him back into the Island; the complaints of the miserable Provincials, either never, or seldom, coming to the knowledge of the Prince, at least very late; and such as were appointed to hear them, often miscarrying in their Intelligence, as well as he, by reason that witnesses, or possibly the parties themselves, were unable to travel. For this cause it was afterward ordained that the *Chancellors*, and *Domesticks* of the Judges, should for some time, stay in the Provinces, after their time was expired; nay, afterwards the Governor's themselves, sometimes three moneths, sometimes thirty days; and that in the *Metropoles*, or Towns of greatest concourse, that there they might receive either the applause of their good Government, or be liable to the objections of Rapine, or other faults of their male Administration; and if they were got away, and endeavoured to conceal the guilt of which they were conscious, they should be apprehended, and sent back into the Province, there to continue for four months together.

Sends back *Natalis* who had been *Dux* of *Sardinia* into his Province.

81. The first indeed that began this wholesome course, was the Emperor *Valens*; but with the *Numerarii* or *Tabularii* only, not meddling with Governors of Provinces, or their Domesticks. Them he ordered to stay a year or two in the Province, to give account of their sloth and neglect, and this at length was drawn into example, and applied to the Judges themselves. *Theodosius* now, as to the Case in hand, as well provided for the Relief of the Provincials, by causing the Offender to be conveyed back, and that under Custody of the *Profectors*, (to whom often was committed the Prosecution and charge of Criminal Persons) and there to be punished two several ways. For he will not only have him answer what Injury he had done himself, but the insolences committed by his Officers and meaner followers, a thing not heard of before, that a Judge should answer the Thefts and Rapines of his Ministers, (who themselves might be called to account) though what his Wife did amiss, was wont to be required at his Hands. But whereas by means of their Attendants, they were wont to Harass the People, or at least to Connive at their Insolence and Oppressions; he makes this Man lyable to the miscarriages, not only of his Domesticks, who were chosen by the publick, but of his very meanest menial servants. The Fine it self he appoints to be the fourfold value of the loss sustained by the Party, who it seems also was to have

L. 7. de iis que Administrantibus. Cod. Th. Conjugend. cum 18. de Numerariis, Abest à Cod. Just.

L. 1. 1. 2. de exilibus Olorens & Avaris. Cod. Th. lib. 10. tit. 21. & L. 1. 1. 2. Cod. Just. 10. lib. 11.

I. 2. de Sententis ex p. viculo recitandis. Cod. Th. Dat. Const. 16. Kal. Jun. A. 1. 1. 1. 2. Cod. Just. Pave Sublimitatem tuam nostris legibus convenit.

I. 3. ad legem Julianam Repetundarum Cod. Th. Dat. Prius. Id. Jun. Const. & L. 1. Cod. Just. Eod. tit.

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have the benefit of it; that being the ordinary Fine for Theft and Rapine, as also of Bribery and Cheating. This Edict is directed to one of the Successors of this *Natalis*, by the Name of *Matronianus*, *Dux* and *Præses* of *Sardinia*; for some (of the smaller) Provinces had the same Persons, sometimes both *Duces* and *Præfides*; that is, both Civil and Military Officers. And whereas *Sardinia* was the Province; we may take notice, that at this time this Island belonged to *Theodosius*, his District, or to the Eastern Empire; though afterward it appertained to the Western: First, to the Diocess of *Italy*, and at length of *Africk*. One might imagine that this Law, which though made upon the occasion of *Natalis* his Misdemeanors, yet was to stand good against others, for the time to come, (and accordingly it was put into the Code of *Justinian*) might have seemed sufficient to the Law-maker to restrain this Rapacity. Yet three months had not passed, ere he, not satisfied with what he had done, declared by another, directed to *Florus* his *Præfectus Prætorio*, that the Heirs of such Offenders dying, should incur the same penalty, though they themselves had neither been condemned nor called to Account. This indeed had been formerly Law as to this Crime; but the Suit was to be commenced against the Heir, within the term of one year, whereas he will have the Action lye indefinitely.

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388.L. 4. Cod. Th.
Enl. tit. 1.
L. 2. Cod. Th.
Dat. 10. Kal. Sept.He shows
great care for
Corporations.

82. Great care he shewed at this time of the Corporations, from the service of which he would have none excused, but they must discharge what already was incumbent on them, and substitute fit Persons in their places. Nay, all Senators that from *Curiales* had obtained that Dignity; he will have *Clearchus* *Præfect* of *Constantinople* to remand to their several Courts, and not them only, but all their Sons, although begotten during their Senatorial qualities. And, as if they retained still as much Dignity by being Members of the Senates of these Ordinary Cities, as if they had been Senators still of the two Imperial Seats, he commands that none of them disgrace their liberty and quality by being Bailiffs, or by managing the Lands of other men, a matter in those days appertaining to those of servile condition; and this under no less penalty than that of Deportation to him that undertakes the Service, and to the owner of the Estate, the loss of his whole Patrimony. So severe was he to those who made themselves a kind of slaves, and got new Lords for Profit or Advantage: And as sharp he shewed himself against such as were slaves indeed, but would be rid of their Service, and their Lords together. In the Province of *Lydia*, some accused their Masters and that out of Hope of Impunity upon proof of what they objected. But upon Consultation of *Panellinus* the *Consularis*, he appoints that such Traitors be put to death, notwithstanding they made good their Charge, which must be understood, except the crime was of the Nature of High Treason; for then the lesser was obscured by the greater. But as *Theodosius* shewed himself sharp against slaves that betrayed private men, *Valentinian* exercised wholesome severity against such Persons as offered those that were Knaves, or Cowards, to publick Military service; which was become so common, that, of them he required the value of such a Tiro or new Soldier, as should run away within one year after their listing; such as should conceal them, in conformity to former Laws, he will have, if Stewards, to be burnt alive; and if Masters, to forfeit the Lands in which they were concealed. And whereas the Sons of *Primipilares* were obnoxious to the Service of Officials, as well as their Fathers, as the Emperors in other Cases of deserted Military employments require money to be given, so also in this civil one, to make amends for that injury otherwise offered to the Common-wealth. At this time also, so notable for Desertions; complaint was made that many of the *Curiales* had forsaken their Stations at *Carthage*. Such as had already done it he excuseth, if so be they had served in the *Militia Armata* four years, and thirty in that called *Militia Palatina*, as *Protectors*, or *Domesticks*; but for the time to come he forbids either sort of employment to afford them matter of excuse, and that by an Edict sent to *Syagrins* his *Præfectus Prætorio*, who was a Person taken notice of for his favour to all *Palatines*, or Courtiers: To him this year by another Law he gave Order that the Sons of *Curiales* should follow the Condition of their Father; though their Grand-fathers, and Ancestors were free from any such Obligation. And that the Sons of veteran Soldiers, if unfit for War, given to idleness, or rendered unexcusable by debility of body, should not escape the services of the Courts.

L. 91. 92. 93.
de Decurionibus
Cod. Th. lat. e
hoc Anno.L. 17. de Petitionibus &c.
Cui. Th. &c.
L. 6. Cod. Just.
de Dilatoriis
Dat. 17. Kal. Nov.
Const.L. 6. de Desertionibus, Cod.
Th. P. P. Rome
4 Non. April.L. 13. de Cohortibus, &c.
Dat. ad Severum
P. P. 3. Non.
April. Abest à
Cod. Just.L. 88. de
Deception. Cod.
Th. P. P. 5. Id.
April Carthag.
Abest à Cod.
Just.L. 89. Eod.
tit.Great severity
against Slaves
that betrayed
their Masters.Valentinian
also severe a-
gainst such as
sent in unfit
men for War.And against
such Curiales
as deserted
their Stations.

83. The Provincials of *Africk* he further pleased this year, as by other Edicts, so especially by one directed to *Proconsuls*, *Vicars*, and other Governours, whereby

ha

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Orders of the
Prefecti Pretorio,
for Taxes
to be confirm-
ed by the Em-
perors.

A Law against
sturdy Beg-
gars in Rome.

Extraordina-
ry Taxes, and
sordid Im-
ployments im-
posed in Italy.

None to be
excused from
extraordinary
Payments.

But from for-
did Services,
eight sorts of
Persons.

he forbade them to obey the Letters of the *Prefecti Pretorio*, when they laid " new or extraordinary Impositions upon the Provinces; except they were con- " firmed by Warrant of the Prince himself. And as acceptable a Law he sent to " *Rome* not long after, directed to *Severus* the *Prefectus Pretorio*, (or of that " City) for banishing thence all Lusty and Sturdy Beggars. The greatness of the " Place afforded now such reception, and concealment to multitudes of People, " that slaves, and labourers, who were weary of service, resorted thither out of the " Provinces, hoping to find shelter for their sloth; which thing, very inconvenient " at all times, was now the more intolerable; for that in those days, this City was " often pinched with Want, and this constrained the Magistrates to expel the Town " all vagrants and useless Persons. He commands that those Beggars be discover- " ed, apprehended and searched, whether they were healthful and able to work; " if such they were found; and discovered to be of servile condition, they should " be forced back to slavery; if found to be free, but in service they should be " remanded to that (perpetual) service or labour at Husbandry, called *Colonatus*; " and so both sorts remain either slaves, or servants to the discoverers; which was " an effectual course to have the City swept of such Vermin. We may add that " the Christian Religion by its Principles, and Precepts inclining the Professors " thereof to more than common Charity; such Rogues abused the opportunity " which the truly poor and indigent thence had for Relief, and besieged those " places about the Vatican, and the Church of the Apostles especially; where they " wrought by their hypocritical complaints upon those that were compassionately " inclin'd, whether Ecclesiasticks or others. And St. *Ambrose*, Bishop of *Milan*, writ- " ting hereof at this very time, advises Clergy-men not to imploy their Charity upon " such undeserving persons, but to be careful and circumspect upon whom it was they " bestowed their Alms.

84. What we have lately observed out of *Zosimus* concerning the Motions in " *Illyricum*, and *Vitalianus* being sent to command there, some think to have fallen " out about this time. For throughout the Provinces of *Italy*, as well as in other " places, were new extraordinary Taxes, and sordid Employments imposed upon the " people; which, as *Valentinian* took care that they might not be without his " knowledge and consent, and thence occasion given to the Rapacity of his Officers; " So he took some pains to distinguish betwixt Things and Things, Persons and " Persons; that all alike, and confusedly might not be obliged to the same services. " Therefore in the first place, he gives order to *Hypatius* the *Prefectus Pretorio*, " that his Lands in *Africk*, particularly those called *Emphyteuticæ*, or held by Te- " nants in perpetual Right, should not be subject to extraordinary services; be- " cause in way of exchange, and to be excused from these impositions; besides " the ordinary finding of Corn and other things, they paid a constant and certain " Rent in Gold. And whereas the setting out of Men and Horses was now used " and pressed upon the Provincials, for the expedition of *Illyricum*, or for that Re- " lief which *Theodosius* had required of him and *Gratian*; these belonging to the " Court were, it seems, also named to contribute towards the Supply, which caused " them to betake themselves to him by Petition, that they might enjoy their wonted " Privileges. This he grants them Commanding by an Edict directed to *Sya- " rius* the *Prefectus Pretorio*, that the *Comites*, or *Magistri Memoriae*, *Epistolarum* " and *Libellorum*; as also those who wrote in their several Offices, and dispatched the " Answers of the Prince, should be free from all vile and sordid Services, and also " from finding of Men, and money in lieu of them as in former times. This Pri- " vilege he also extends to them when gone from their Employments, or raised to " higher Dignities; who by other Constitutions were excused from the setting " out of Horses also for publick Service.

85. But so pressing still continued the Affairs of *Illyricum*, that by another Law " published toward the end of the year; he expressly forbade *Hypatius* to excuse any " Persons, of any condition whatsoever, from extraordinary Payments or Prestations, " so as no Petition or Pretence should by any be made Use of. But as for base " or sordid Services, or Employments; he thinks fit to excuse no less than eight " sorts of men. Such he terms the *Heights of Dignities*, viz. the Illustrious Persons, " whether Civil or Military, so often enumerated by us, the Prefects of both sorts, " *Magistri Militum*, the two *Comites Largitionum*, & *Rerum Privatarum*, the *Quæstor*, " & *Magister Officiorum*. In the next place the *Consistorian Comites*; next, the No- " taries; those belonging to his Chamber, as *Cubicularii* and *Excubicularii* also; " and all the *Palatines*, and *Military Men* in the Palace; provided they could show " that

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L. un. de super
indicto Cod.
Th. lib. 11. tit.
6. Dat. 7. Kal.
Jun. Med. &
L. unic. Cod.
Just. eod. tit.

L. un. de Men-
dicantibus non
invalidis Cod.
Th. lib. 14.
tit. 18. Dat.
12. Kal. Jul.
Patavi. &
L. unic. Cod.
Just. eod. tit.

L. 13. de ex-
traordinariis
sive sordidis
Cod. Th. Id.
Apr. P. P. Car-
thagine, &
L. Perpetua, 10
Cod. Just. de
excus. muner.

L. 14. Cod. Th.
eod. tit. l. c. 12
3. Kal. Sept.
Capua, & L.
eos qui. 11. Cod.
Just. de excu-
sation. muner.

Culmina dig-
nitatum.

L. 15. de ex-
traordinariis
sive sordidis
Cod. Th. Dat.
ad Hypatium
3. Id. Decemb.
& L. maximb.
12. Cod. Just.
de excusation.
munerum.

Sect. 3.

that such Immunity did formerly belong to their Body, Company, or Dignity. " This Immunity he also extends to Churches, or rather leaves part of what he " found unto them; for they were wont to be excused both from base, and ex- " traordinary Services, by the Constitutions of preceding Princes; but as from the " one he now quits them, so he leaves them subject unto the other by this Law. " And in the last place he mentions *Rhetoricians* and *Grammarians*, both in the " *Greek* and *Latine* Tongues. Having told what Persons he will have excused, " he then declares the Particulars from what he excuses them, and enumerates " some fourteen which he calls by the name of sordid Services. These were Im- " ployments about Meal, Baking of Bread, and others relating to the publick " Bake-house: The finding of Carriage Beasts, and of labouring at the conveyance of " Materials, or other publick works; burning of Lime; furnishing of Timber for " Ships, Wood for Spears and Arrows, and Boards or Planks, all for the Service " of the Army; finding of Coals for the Mints or publick Forges, or other ex- " traordinary works; labouring at the raising or repairing of publick Buildings; " the charge of Hospitals; the care of High-ways and Bridges; setting out *Tirones* " or Men to the War, or else paying the usual sum of money in room thereof; " and lastly, contributing to the expence of Messengers sent to the Court, and " those that Collected and Conveyed the Tributes to the Treasury. From all " these he excuseth the Persons before named, with these Restrictions, that when " there is need of supplying the Army, lying upon the Limit of *Rhetia*, Excuse shall not be admitted from lading of Horses and Carriages; for it was exposed to the Incurfions of the *Allemans*; and for that reason had its peculiar *Dux* to look to the security of it, who at this very time had Employment enough, though assisted by whole Legions, the work of which it was to be Convoys to such Provisions as were sent to these distant and dangerous places. Then he declares that " the Immunity hereby granted shall be understood to be Personal, so as only to " continue for life, and not extend to their Wives or Heirs. And he excepts from " this Immunity such as were obnoxious to finding Coals, provided it were for " the Mints and making of Arms.

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183.

Sordid Servi-
ces what. +Several Pre-
fecti Præto-
rio of Italy at
the same time,
and why.

86. We shall further observe in reference to these three Laws, that they are directed to two several *Præfecti Prætorio*, viz. *Hypatius* and *Syagrius*. *Syagrius* seems to have been *Præfect* of *Italy*; for, the Edict which to him is directed, is said to have been read at *Capua*. Now, what was said concerning the Plurality of Emperors before *Constantine*, may here be applied to this time; That it caused more *Præfecti Prætorio* in number to be made; to which this may be added that *Gratian* also having governed in the District of *Valentinian* his Brother, by reason of his Non-age, seems even still to have had a share in the publick Administration of *Italy*; the *Præfectship* whereof at this time is observed to have been cut and divided into several parts, though formerly one and the same intirely. Therefore *Syagrius* is thought to have commanded only in that part of *Italy* lying to the Right Hand of *Rome*, as *Campania*, (of which *Capua* was the Metropolis) *Apulia*, *Calabria*, *Lucania* and *Bruttii*. As for *Hypatius*, to whom the first and the last Constitutions about these Services are directed; the former being said to have been published at *Carthage*, he seems to have had *Africk* for his share. And this must be that *Hypatius* of whom *Ammianus Marcellinus* makes mention, Commending him for the sweetness of his Disposition, and affirming him to have brought both Glory to his Ancestors, and Dignity to his Posterity, by the Acts of his Twofold *Præfectship*. Whereas he speaks of two *Præfectships*, the one of the City he executed two years ago, viz. in the year CCCLXXIX. and the last of the *Prætorium* in that whereof we now write; of which *Ammianus* speaking as but lately past, and calling him *Noster Hypatius*, as a familiar and intimate Friend; it is rationally concluded that he wrote his History about this very time. To this same *Hypatius*, this Emperour *Valentinian* directed another Edict five days after the Date of the last; in behalf of those that belonged to the four *Serinia*, or Offices in the Palace so often spoken of. " Thereby he signifies that he had caused a Levy " of Horses to be made for the War, at the Expence of the *Honorati*; but from " that Burthen he discharges them, both for the present, and the time to come. " The occasion of this Levy of Horses was for the *Illyrican* Expedition, or else for the defense of *Valentinian* his own Territories, from the Inrode of the *Marcomanni*, *Quadi*, and *Juthungi*; which in those days molested the Borders of *Rhetia*, and of *Illyricum*. The Law it self is so full of barbarous words and expressions, that it seems composed by some *Gall*, or one of Barbarous Original.

L. 3. de Proxi-
mi Comitibus
Gr. Col. 1. n.
Dat. 15. Kal.
Jan. P. 1. 1. 1.
Ab st à Cod.
J. 1. 1.

Sect. 3.

Gratian
makes a Law
concerning
precedence of
great Officers.

87. It's something strange, that having so many Laws made by *Theodosius* and *Valentinian* this year, we should hear so little of the Emperour *Gratian* in this kind; for not one can we find which probably may call him Author, except it be a famous Constitutio concerning Precedence, which by *Valentinian* the third, some years after is said to have been of his making. Herein in the first place he supposeth and taketh for granted, that all others Dignities must give place to that of the Consulship, so as those possessed of it, should sit first in the Senate-House, and first give their Votes or speak their Opinions, even before the *Præfēt* of the City, who by *Gratian* some years ago was declared to have place before other Dignities of *Rome*, nay, before such as had obtained the Dignity of *Patritians*, much more the *Præfēti Prætorio* and *Magistri Militum*; for these four, viz. the Consulship, *Patritiate*, *Præfēship* (whether of the *Prætorium* or *City*) and the Office of *Magister Militum*, constitute the first Degree of Illustrious Dignities. Yet was the *Patritiate*, which was Instituted by *Constantine* the Great, rather an Addition of Honour to another Person, than any peculiar Dignity, it being added usually to other Titles, as, *Præfētus Prætorio* and *Patritian*, *Patritian* and *Magister Officiorum*; *Patritian* and *Magister Militum*, like as *Consul* was the (only) Addition to the Imperial Dignity. To this the Law made afterward by *Zeno*, might much give occasion, by which he Decreed that the Honour of the *Patritian* (whereby Persons had the privilege to be styled *Parents of the Prince*) should be given to none, but such as had been *Consuls*, *Præfēts*, *Magistri Militum* or *Officiorum*. But *Gratian* as to the point of Precedence further determines, That if any Person should have been both *Consul* and *Præfēt*, or *Magister Militum*, in such Case this twofold Dignity should give him place above the rest, that have only injoyed a single one, though it were of the Consulship it self; for, the greater Cumulation of several Dignities carries the preheminance, although a Repetition of the same Honour (as being twice *Consul*) cannot; which yet *Valentinian* the third thought as reasonable as the other. But if one that had been *Consul* had left his place to another who obtained two other Dignities, in Case he obtained a second Dignity he should recover his wonted Station, and that out of the great Respect given to the Consulship, even in these Days.

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382.

L. unic. de Con-
sulibus, Præ-
fētis &c. Cod.
Th. lib. 6. tit. 6.
Abest. à Col.
Just.

88. In the CCCLXXXIII year of our Lord, and the eleventh Indiction, being the eighth of *Valentinian* the Second, *Fl. Merobaudes* the second time, and *Fl. Saturninus* were advanced to the Dignity of *Consuls*. For this year *Florus* and *Posthumianus* were *Præfēti Prætorio* under *Theodosius*; and under *Valentinian*, *Fl. Merobaudes* and *Hypatius*. *Proculus* was *Comes* of the *East*, and another *Hypatius* was *Præfētus Augustalis* of *Aegypt*. *Theodosius* made his Abode all this year at *Constantinople*, and *Valentinian* continued at *Milan*, till about *May*, and then removed to *Padua*, or *Verona*. As for *Gratian* we find little of him, till the declining of the year, at what time we shall hear of him upon an occasion. In the mean while, to take things in the most orderly manner, and as they lye in time; before us, *Theodosius* thought it best to begin the year with the settlement of his own Family, to which he could no better way contribute than by giving the Title of *Augustus* to *Arcadius* his Eldest Son, a Boy, now in the sixth year of his Age, which was performed on the sixteenth day of *January*. Having made him Emperour, he took great Care that he might have Education, and be instructed as became so high a place; and for that purpose, he had written to *Gratian* his Collegue, that he would send him some Pious and Learned Man, that might be fit for such an Undertaking. *Gratian* hereupon sent to *Damascus* the Bishop of *Rome*, to recommend a Man, who pitcht upon *Arsenius*, a Deacon of the *Roman Church*, a Person Eminent for Piety and Learning. When he was come to *Constantinople* he Committed his Sons to his Charge, and put them fully into his Hands, both for Knowledg and Morals, with these words; *Hence are you their Father more than my self*. On a time coming into the School, he found *Arsenius* the Master standing, and *Arcadius* the Scholar sitting as he was taught; at which sight he was angry, and expostulated with *Arsenius* for not preserving the Authority of his Office, to which, when he replied, that it did not become him to sit while he taught an Emperour, out of Indignation he took the Diadem from the Head of the Boy, made *Arsenius* sit down in the Chair, and *Arcadius* to stand, as became a Scholar, adding, that *His Children would no otherwise be worthy of the Empire, than if to Knowledg they added Goodness*. Yet did *Arcadius* so far forget that Gratitude which all wise and good Men have ever acknowledged due from those that receive their Education and a better Birth, to their second sort of Parents, that

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Fl. Mero-
bandes &
Fl. Satur-
nino Cons.

Theodosius ad-
vances his Son
Arcadius to
the Imperial
Dignity.

Socrates lib. 5.
c. 10. Sozom.
lib. 7. c. 12.
vid. Chron.
Hisor. ad
hunc Annum &
Baronii Anna.

+ N

Sect. 3. that being Corrected for his Faults, he would herein, also have made himself the Successor of *Nero*, by plotting against his Masters Life, from which Danger he escaped, departing secretly from the Court into *Aegypt*, where he afterwards lived and became famous for Sanctity. How base and ungrateful soever the De-meanour of *Arcadius* was while a Child, his Cousin-German and School-fellow *Nebri-dius* made better use of his time, being admired by St. *Jerome*, for that being brought up in the Palace, as the School-fellow of the Young Emperours, (whose Table the whole World furnished, and both Sea and Land did serve in the affluence of all things) and that in the first flour of his Age, he was of so modest Dis-position as even exceeded that of Virgins; and though the Companion and Kins-man of the Prince, and Educated in the same way (which things are wont to breed suitable Dispositions) yet could he not be discovered to be puffed up with the least Pride, or Contempt of other Persons.

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89. How *Theodosius* by this Promotion of his Son might please his Subjects of the Eastern Province, we know not; but the second day after, he Enacted a certain Law which doubtless would displease one sort of Men. The old Custome was, that the Lands belonging to the Emperour or Common-wealth were in the Hands of the *Decuriones* or *Municipes*, viz. held and farmed by Bodies Politick, or Cor-porations, and so were those belonging to the Temples, who paid their constant Rents, either to the Use of the Publick, or some of the Pagan Religion then ob-taining. But after the dissolution of that false Worship, and that the Lands came to be laid to the Patrimony of the Prince, Both kinds had been taken out of their Hands, and put into those of private Men, probably to raise the greater Revenue; but it had not been done with such Care, but that the best or fertile were taken to Farm by those who understood their Trade, and the worst or unfruitful still re-mained on the Hands of the Emperour, and thus separated brought small or no Advantage to him. Now though we must needs say, that generally Emperours did not incline their Ears to New Chapmen, or such as would offer more, and turn out old Tenants; yet either for that the publick Occasions required it, or the less Fertile Lands lay generally neglected, whereas formerly they were wont to be let together with the better sort, *Theodosius* ordained, That in the like manner they should be added by way of *Epibole* (as it was called) or *Adjection* to the better; and if such as now held the most Fertile, would not take them with the Increase of a third part of the Rent, then New Tenants were to be admitted. If none of these could be found, he will have the Lands revert to the Antient Possessors, viz. the *Decuriones* or Bodies Politick, and that without any Augmentation or Addition of a third Part required of the other, provided, they gave sufficient Bond or Caution for payment of the Rent. But thus were the Emperours often constrained to make this *Epibole* when barren Grounds were left upon their Hands. As for such as hold them by perpetual Right, he forbids that they be turned out of Possession, having by their Industry in Tillage brought them into a better Condition, notwithstanding any Decree obtained surreptitiously from himself to that purpose; and contrary to what the Antient Laws provided in that behalf; yet so as once it might be lawful to impose the *Epibole* or *Adjection*.

L. 4. de locati-
one Fundi Jur.
Emphyteutici.
C. C. Cod. Th.
lib. 10. tit. 3.
C. L. 6. Cod.
Just. de omni
agro deserto.
Dat. ad Nebri-
dium Com. R.
P. 15. Kal. Feb.
Const.

Makes an Or-
der about the
farming of his
Lands.

The Epibole.

L. 2. de Locatio-
ne Prædiorum.
Civilium Cod.
Just. lib. 11.
tit. 70. Dat.
ad eund. Ne-
bridium.

90. But whatever private Persons might think of this, or other Matters, now was the publick Joy by Messengers to be excited according to the Custome, for the Creation of a New Emperour, and Images of him were to be dispersed amongst the Provincials, who upon such occasions, out of Novelty were greedy to Contem-plate the Countenances of their Governours. To prevent the Rapine which at these times was wont to be exercised by those that were employed upon such Er-rands; he published an Edict as his Predecessors had done. Prohibiting any thing or Reward to be Exacted of the People, for any Joyful News, either upon this occasion of New Promotion, ending a War, or that of a Victory; when the Emperours themselves received Consular Ornaments, or of a Peace. The Edict bears Date of the second day of *February*, a Fortnight after his Promotion, when all over the Provinces the People were running and gazing after those Pictures which were carried aloft, to be seen by Men richly Clad, and Adorned with Gold, before whom went a Trumpetter and gave notice to the Multitude, which, if pleased at the Sight, might bestow freely upon the *Gerulus*, or Bearer, what they thought fit, but nothing was to be Exacted or forced from them; if it were, by a Sacrilegious dissimulation, as the Emperour terms it, both the Receiver and Com-pulsor should incur Infamy and loss of Estate, and the Office of *Florus* the *Præfæ*, to whom the Law is directed, a Fine of thirty pounds of Gold. The Emperours

L. 4. Ne quid
publicæ lætitiæ
Nuntii etc.
Cod. Th. lib. 8.
tit. 11. Dat.
4. Non Febr.
Constant. C.
L. unic. Cod.
Just. hoc tit.

He prohibits
any money to
be exacted by
the Messengers
of good News.

Sect. 3.

then Receiving Consular Ornaments is here expressed by *Honour of the Royal Trabea given to the Fasti or Register of the Consuls*. The *Trabea* was the Robe proper to *Consuls*; and by giving the Honour of it to the *Fasti* is meant Inserting the Emperours Name into the Register, or publishing him to be *Consul* for the following Year, to which he gave, together with his Colleague, the Characteristical Note. But in this Law *Theodosius* makes no mention of the Consulship of Subjects or private Men. For the Custom of declaring them Consuls, though formerly observed Solemnly, was now either grown out of Use, or at least nothing was now exacted for the Messlage, which though known sufficiently, as to them, might yet be doubted as to what concerned the Emperours.

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Further gratifies Corporations.

91. *Theodosius* further proceeded at this time to gratify the Corporations by recalling several back to their Services whom some Laws had excused, and obliging their Children, though set at liberty by former Princes. Yet would not he permit the *Decuriones* to hire or receive to Farm any Customes whatsoever, because excused from such Severities as were exercised against other sorts of Persons offending in such Offices: but here he excepts the *Diocesi* of *Aegypt*, partly because of the great Trade driven there at *Alexandria*, for which other sorts of people could not furnish a sufficient Number. In other places he will not have them receive in Farm the least sort of Custom with which the Senators of *Rome* were also Prohibited in former times to meddle in any such way. He would have them intent upon the business of their Corporations, from which he ordains that they receive no Immunity by Warfare; no not by Virtue of the Prince his Rescript; for, the Emperours usually forbade their own Decrees to take place when against the publick Good. As to Warfare, whereas both he and his Predecessors were wont to play an after-Game by an ingrateful forcing back such as had already served in the Wars, he resolved to prevent the Lifting and Entertainment of such Persons into Service, and for that purpose strictly required, that when any one offered himself to be Listed, full Inquiry should be made into his Birth and the whole State and Condition of his Life, so as he was to prove himself free, both from Servitude, the Relations to Corporations, and other Conditions, which might render him unfit for Military Employment. To like Inquiries also were made into those who were admitted into the *Palatine Militia*, or the Emperours Court-Employments: as for such of them as had already continued therein for the space of ten years he yields, that they be discharged from any Obligations to the Courts of these Towns and Cities Corporate; in the stating of which time he differs from other Princes; for, some required more, and some less for the discharging of these Curcial Ties, which gave Princes so much trouble. But *Theodosius* was so kind to his People, that as he would not prefer, the Sons of such as had Relation to Corporations before the Interest of them; but though the Fathers were excused (as Professors and others) yet they should be bound to discharge the several Duties to them belonging; yet he would prefer the Interests of Sons before that of his own Exchequer. For, whereas *Valentinian* eighteen years ago, had made a Law, in favour of the Children of such Criminals as were Condemned and put to Death, he was now pleased to extend the same Mercy to their *Posthumous* Issue, or those that were begot, but not already Born; the Crime of High-Treason ever excepted, which excludes all the Children of Traitors from the Benefit of their Estates, that they may not have wherewith to Arm themselves against their Prince or Country. But that the Exchequer might not be defrauded, and to prevent supposititious Children, he Commands the Old Edict of the *Prætor*, in a manner, to be observed. He will have the Wife of the Condemned Person, after his Death, to send and certify the Governour of the Province, of her being with Child; and her self to go to the Municipal Magistrate, and Deposite in his Hands the Certificates or Testimonies concerning her Condition; and last of all, that she be so kept and looked to, that all opportunity of Cheating may be prevented.

Yet he enforces the old Edict of the Prætor.

He prevents Abuses in the Exaction of Tributes.

92. To prevent another sort of Cheating, but of the Subject, he published about the same time several other Laws. Whereas the poor Provincials were compelled to take great Journeys to pay their Tributes, and get rid of their Money; and that by reason that there was for a whole Diocesis but one Receiver, who was wont to reside in the Metropolis or Chief City; For the time to come he Commands this great Abuse to be rectified, by making, as need should be, more Receivers or Collectors in the same Diocesis. And that the People may not be constrained to pay the same thing twice, he Orders, that these Receivers

for

Ubi de Decurionibus de Decurionibus Cod. Th. hoc Anno datas scilicet à L. 94.

Excepta Diocesi Aegyptiaca.

L. Quid probare debeant. Cod. Th. lib. 7. tit. 2.

L. 12. de Privilegiis. Cod. Th. in S. Pal. mil. Cod. Th.

L. 10. de Bonis Proscriptis. Cod. Th.

L. L. L. 17, 18, 19. de Susceptoribus Proscriptis &c. Cod. Th.

Sect. 3. for every sum received give an Acquittance, wherein shall be expressed both what, in what kinds, upon what Account, and in what *Indiction* it was done. And yet farther, because, in receiving Tributes in kind, they were wont to make their own Measures, and Constrain those that paid to give more than their due Proportion; he ordains That in every Station, that is, every Place where they were wont to be paid, certain Weights and Measures should be established. So, long ago, to prevent the the Frauds of Tradesmen, it was not only the Duty of *Aediles* to see that due Measures were allowed, but publick Measures and Weights were kept in the *Capitol*, by which all those of private Men were to be measured, according to a Standard, if any Controverſie aroſe thereupon; which the Emperours in ſucceeding times alſo took Care of, as occaſion was; and *Pretextatus* the *Præſect* of *Rome*, cauſed it to be practiſed in all the Regions of the City, as we have ſeen from *Ammianus*. But this Law is directed to *Poſthumianus* the *Præſectus Prætorio*, and that concerning Acquittances to *Flavianus* the *Proconſul* of *Aſia*. This is he who, contrary to *Theodoſius* his Law lately mentioned, cauſed ſome *Decuriones* to be beaten or examined with Torture, for which Offence, while the Emperour conſulted how to puniſh him, he took Boat and conveyed himſelf away; and therefore, he turn'd him out of Office. But, for ſuch as were behind in their Payments of Tributes; that no Violence or Rigour might be uſed; if the Debtor was a great Man, he ordered that the Exactor, or he that was ſent to require the Arrears, ſhould be one of the Officials of the Judge of the Province; if a *Decurio* then a *Decurio*; but if a mean Perſon, then one of their Protectors called *Defenſor Civitatis* ſhould with all Juſtice or fidelity Compel him to the payment of his Dues.

A.D.
380.L. 12. de Ex-
actionibus Cod.
Th. lib. 11. tit.
7. Dat. ad
Conſtantianum
Vicarium Pon-
tificæ. Abſt. à
à Cod. Juſt.Forbids the
ſtrictning of
Streets and
Forums in Ci-
ties.

93. So much ſtill was the Emperour inclined to yield to any thing wherein the publick benefit was concerned, that in another Caſe he declared that no Preſcription of Time, no, nor his own Reſcripts ought to obſtruct it. But Complaint had been made by *Proculus* now *Comes* of the *Eaſt*, that in *Antioch* the Metro- polis and Eye of theſe Parts, the *Forum* or publick places were obſtructed, to the great deformation of the City; with which this *Proculus* was the more concerned, ſo that at his own Charge, he beautified the place with ſpacious and convenient Streets, *Ponticus's*, Baths and *Forums*. For this he is commended by *Libanius* the Sophiſt, who had reaſon to do it from his own Experience, having been once in danger of his Life as he paſſed from the Senate-Houſe, by reaſon of the former ſtraitneſs of the ways. "But to encourage *Proculus* in ſo laudable an Undertaking, *Theodoſius* declares in an Ediſt directed to him, what we ſaid concerning Preſcription of time, and his own Reſcripts, and Commands, that in all Cities ſuch Buildings be pull'd down as were erected on publick Ground. And herein he did better in gratifying him, than in other matters which he alſo deſired. For, if credit may be given to *Libanius*; though *Proculus* was to be commended for publick works he made at *Antioch*, yet was he Tyrannical in his Government, and left it in diſgrace, as the Sophiſt relates in his Oration to *Icarinus* his Succeſſor. Therefore to his ſuggeſtions is aſcribed the Rigorous forcing back to the Court of *Antioch*, or other places, ſuch as had aſpired to Senatorian Dignity, which this Emperour by an Ediſt to him directed doth enjoyn. But this is nothing ſo ſharp as what he ordered concerning the Principals of the Officials belonging, to him or other Governours of Provinces. "For he not only Commands that they be returned back to their former Employments; but alſo be Chaiſed with Plummets: a puniſhment Cruel and Servile, but ſuch as through the Cruelty of Judges was in this Age grown too Common, and gratified the Tyrannical and pitiful Humour of *Proculus* towards thoſe, who were the Officers belonging to his place, and, during his Government, ſubject to his Command.

L. 22. de de
operibus publi-
cis Cod. Th.
Dat. 3. Id.
Jnn. Hæve
Procul. R. N.
B. & L. 6.
Cod. Juſt. cod.
tit.L. 90. de De-
curionibus.
Cod. Th. Abſt. à
Cod. Juſt.L. 14. de Co-
hortationibus Cod.
Th. Abſt. à
Cod. Juſt.Valentinian
Concerns
himſelf for his
Revenue.

94. But let us leave *Theodoſius*, and ſee what we find of *Valentinian* in the Weſt, before we come to tell the ſad Story of his Brother. We find him in the firſt place concerned for his Revenue, that no Senator might eſcape the Payment called *Glebalis Collatio* due from his Lands, whether he was borne to that Dignity, or had been preferred to it, only through the Bounty of the Prince. "To this end he requires that every one of that Order, give into the Senate a true and full Particular of his Lands, upon pain of forfeiting whatſoever he Concealed, which was the uſual courſe taken with Concealed Goods in point of Customs. And whoever attains to the Dignity of *Conſularis*, either as Governour of a Province, or by Codicills, before he enjoy or execute his Place, he will have him under his hand to own the Payment due from Senators; to declare where his Habitation is, that there the Payment may

L. 2. de Sen-
toribus & de
glebalis Collati-
one Cod. Th. lib.
6. tit. 2. Dat.
ad Hypatium
4. Id. Jan.
Abſt. b. L. pa-
riter ut reli-
quæ leges hujus
Tituli à Cod.
Juſt. propter
glebalem Colla-
tionem ſubla-
tam.

be

Sect. 3. be Exacted; to give also a full Account of his Possessions, and thereof to send in a Schedule to the Office of the *Comes Longitionum*, that thereby may be known what Accession is made to the Emperour's Revenue. These Rules he will have observed by those Senators that had Possessions. As for those that had none, he will yet have them pay the two Folles formerly mentioned, which also, who-so-ever is admitted to the Dignity of *Consularis*, or to any of the higher sorts of Offices is bound to acknowledg, and promise to pay. But from this Obligation he excepts such as had been made Senators for having faithfully discharged the *Palatine* Militia, or Offices in the Court. But though he allowed this Privilege to those Persons in a matter wherein his own Profit only is concerned, yet will he not approve of Immunities, obtained by particular Men from the usual Imposition or Tax upon Lands, because what thereby would be granted to a few, would tend as he saith to the Detriment of many. Therefore will he have them all taken off; and to shew an Example himself, he renounces all such as had been granted to his own Possessions; hoping thereby all others concern'd would be sufficiently satisfied. And he commands *Probus*, to whom the Edict is directed, that he establish this Order, through all *Italy*, as also through the *Urbicarian* and *African* Regions, and through all *Illyricum*. By several others mentioned a *Præfect* at this time, we may perceive the *Præfectship* of *Italy*, lately broken, and bestowed into so many Hands, was not yet again united in the Person of this *Probus*, of whose long and reiterated Power in this Nature *Claudian* the Poet might well sing, as he doth to his Relations; so often did he enjoy the *Præfectship* and so long a time, as we have seen in the Reign of *Valentinian* the Elder. But yet now he was *Præfect* over no less than four Districts, and we see that *Italy*, the *Urbicarian* Provinces, *Africa* and *Illyricum* were all really distinct one from another, and not one in another comprehended. By *Illyricum* is all that Tract of Ground to be understood which was divided afterward into Eastern and Western. "In the last place, the Emperour Commands *Probus* to establish this Law, or confirm it, by which is only meant publishing it with an Edict or Order of his own. For in those times the manner was for Magistrates to publish or expose to View, the Constitutions of Princes, in such manner, as first the Constitution should be recited, and then the Edict of the Magistrate follow, like as the Parliaments of *France* declare or publish the Edicts of that King, which they term *Verifying*; not that the Royal Decrees there receive Authority from their Arrests, but that there must be some way of Solemnity to establish the Truth and Certainty of the Thing.

He takes off Immunities as to Taxes granted to particular Men.

Frequent Robberies about Rome.

Valentinian endeavours to prevent them.

95. At this time there were such frequent Robberies Committed, and such swarming of Thieves in the Countries about *Rome*, that even Persons of Quality durst not Travel; particularly *Symmachus*, an Eminent Man in those Days, chose rather, as he saith, to Macerate himself in the City, of which he was sufficiently weary, than expose himself to so great Hazard. "This drew from *Valentinian* an Edict against the Harbourers and Concealers of Robbers; and because such Soldiers as had fled from their Colours, usually took up that Course of Life, in the former Part thereof he declares how such as give them Shelter, shall be punished. If the Offendor was of mean Condition, he Condemns him to be beaten with Rods, to the Mines, or Deportation; if within two Months (*Theodosius* this year allowed six) he did not discover such a Fugitive to the Ordinary Judge of the Province; if of higher Condition, he imposes on him the Penalty of finding ten Souldiers for the War, or else paying fifty pounds of Silver, which was just the same Value. Such punishment were the Masters themselves to undergo; but if their Stewards or Agents herein offended, they were to Answer it with their Lives; but this was to be understood of such Fugitive Soldiers for whom satisfaction had not been made. But in the Discovery this Course was to be observed, That first they were to be presented to the Governours of Provinces where they were taken, who after Examination, was to send them away to the *Præfect*, by whom they were to be punished, except the *Præfect* or *Magister Militum*, or others who had Authority over Soldiers in matters Capital, were at hand. But against the Harbourers of Thieves or Highway-men he shewed himself still more severe. "For if any one knowingly entertained them, or refused to discover them, he ordains he receive the Corporal punishment, or forfeit his whole Estate at the Discretion of the Judge, if he be Master of the House; if a Servant or Officer, that he be burnt alive.

96. But yet still did the poor Provincials miserably complain of the Inequality of Tax-

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L. 41 Si per Obreptionem fuerint Imperata Cod. 1 Lib. 11. tit. 13. Dat. 4. Kal. Febr. Abest. à Co. Just.

Similitas id ipsum per omnem Italiam etiam Urbicarias Africanasque Regiones, ac per omne Illyricum, Prælat. Oraculi bui auctoritate, firmabit.

Lib. 2. Ep.: L. 8. de Dis. Cod. Th.

L. ult. de Hi qui latrone &c. Cod. Th. lib. 9. Tit. 1.

Sect. 3.

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And the
frauds of Ta-
bularii.L. ult. de C. n.
su Cod. Th.
Dat. ad Ponu-
lum Non Mart.L. un. de Man-
datis Princi-
pum Cod. Th.
lib. tit. 3. Dat.
15. Kal. Jul.
Verone & L. 1.
Cod. Just. cod.
tit.He forbids
pretended
Messengers
from Court to
be believed,
except they
produce their
Instructions in
Writing.Africk and
Rome threat-
ened with
Famine.Valentinian
Indulgent also
to Corporati-
ons.

Taxes, that some escaped Scot-free, through pretended Privilege, while others bore the Burthen that were less able to pay; and the matter grew so high, that though little more than a Month had passed since *Valentinian*, as we have seen made a Law against all such Privileges, yet was he now forced to add a second, more large and efficacious than the former. For in this, directed to the People, having found that the *Tabularii* of Cities, whose Employment it was to keep the Cess Books, and give out Copies to the Collectors, were very faulty in adding or diminishing as they pleased, he Commands they be burnt alive, if, moved or overcome by the Fraud, Entreaties or power of any whatsoever, they admitted of any pretended Immunity. But he directs that the Cess be equally laid, by Consent of the Provinces confirmed by the Prince, having first been equally taxed and adjusted by the *Censitores*, assisted therunto by the Authority of the Ordinary Judges, and the *Prefecti Prætorio*. And whereas Notice was taken that several Persons newly come from Court, and eminent for their Power and Dignity, often injuriously treated the Provincials, sometime spoiling them of their Goods, and otherwhiles of their Liberty, nay, perhaps of their very Lives; and this under pretence that they had Warrant from the Emperours for their Actions, *Valentinian* by a Law sent to *Eusebius* the *Proconsul* of *Africk*, Ordains, that No Person shall be credited, be he *Tribune*, *Notary*, or of the Degree of *Comes*, when he alleages the Prince his Orders, except he produce the same in writing: And hereby he lets the People know that they should not be frightened by their big words or Looks. He instances in those who were (as we have seen out of *Ammianus*) Extraordinarily sent upon various Errands from the Court. These were wont to receive their Instructions in a certain form of words fitted to the occasion, and possibly sometimes secret Orders (*secreta Mandata*) and by word of Mouth; but it being easy to pretend such, and great mischief thereon ensuing, he Commands, that no Credit be given to them. And indeed where the Parties concerned were Couragious, they would not obey such Orders, and therefore it behoved the Messengers themselves to have a certain Rule of Direction, that it might not be said to them, that they exceeded the Limits of their Commissions. Therefore when such Tribunes and Notaries were sent into the Provinces upon publick Business, sometimes they would publicly expose their Commissions, that their Authority might not be questioned. And as no Messengers from the Prince were to be credited, except they produced their Warrants; in like manner to the Messages sent from the Countries to the Emperour, no heed was to be given, except they produced their Instructions in Writing; so that, that called *Libera Legatio*, whereby Power is given to those Employed, to Act as they shall see Cause, and what they think fit, is hereby disowned.

97. By a Letter written from *Symmachus* to this *Eusebius*, *Proconsul* of *Africk* this year, and afterwards advanced to be *Prefectus Prætorio*, it appears, that the City of *Rome* was threatned with Famine, by reason that the *African* Provinces, whence it was wont to have its Supply, afforded not Corn sufficient for the bare Sustainance of their own Inhabitants, and for the year following were to be supplied with Seed from other Places. This Condition of *Africk*, *Eusebius* had before made known to *Symmachus*, who thereupon advises, that Recourse be had to the Princes, and that in the mean time, he would Relieve, as well as he might, those that were committed to his Charge. We find not any Edict made in any sort with reference to this Occasion; but as *Theodosius* this year very much concerned himself with the Interest of Corporations in the *East*, so by a Constitution directed to *Eusebius*, as well as by others to other persons, we perceive *Valentinian* at the same time, no less Zealous for those within his District. He also Commands, that such as were born to the Services of the *Curia*, shall not be excused under pretence of the Military Employment, except they have continued in the Wars fifteen years, whereby he seems to Repeal what he had Ordained the year preceding, as to this same Diocess of *Africk*, That none should be excused, without he could alleage he had seryed five years; and, that for the time to come, the *Curiales* should be excluded from Military Service. But from the wording of this Law, we learn, that to fifteen years, are counted three *Lustra* so that it need not be doubted, how much time the later *Lustrum* of the *Romans* did contain, viz. just five years. And whereas the Emperour here insists upon fifteen years, *Gothofred* conjectures, it is for that in the Reign of his Father so many years ago and more, from the beginning thereof, these Provinces, as we have seen, were dreadfully harassed by the Barbarians, provoked there-

Symmachi Ep.
ult. lib. 4.L. 95. de Di-
curionib. Cod.
Th. Dat. 4.
Kal. Mart.
Med. Abst. 2
Cod. Just.Post quindecim
vero Stipendia,
vinculo prioris
Ordinis libere-
tur, qui se tri-
bus lustris assi-
due militasse,
et neq; bellicis
necessitatibus
neque muneribus
militari-
bus ostenderit
desuisse.

to

Sect. 3. to by the miserable negligence of the Officers of the Army, and the Villany of *Romanus*, which provoked, or incouraged many of the *Curiales* to go into the Field for defence of their Country; and as this might be a Reason why *Valentinian* would be a little Indulgent to such Persons, so might it be an Inducement to his Father, fifteen years before, to grant, that five years Warfare in *Mauritania* should excuse from the Service of Corporations. But as to this Indulgence, granted both to Souldiers and the Palatine Officers, Emperours have differed, and the same Prince ordained several things as to the Term which should excuse them, according as Circumstances of Time and Place have differed. But to be sure, there was much Stir made by some Persons at this time, to escape the Burthens of these Bodies Politick; and some attempted it, by Pleading, that by the Mothers side, they belonged to other Corporations, which being less, and consequently, the Charge of them below that of others, they would needs remove themselves to them. Indeed in the *East*, in the District of *Theodosius*, such Privilege had been granted to the Inhabitants of *Ilium*, *Dolphi* and *Pontus*, that if a Man by both Parents was obnoxious to these Courts, he might use the Benefit of his Mothers Relation; and probably some other places in the *West*, and under the Jurisdiction of *Valentinian*, had obtained the like Immunity; but he abrogates all such by another Law, and whatever Custome there might be for it in the Province, founded upon some such antient Grant: He propounds the Example of the *Senatorian* Order at *Rome*, wherein the Son followed the Condition of the Father, were the Mother of any other Rank.

A.D. 383.

Vide legem
100 illius. x. 7
Dat. 13. Kal.
Maii ad Hypa-
tium P. F. P.

L. 101. Dat.
ad Basilium
Com. S. L. 1.
Kal. Jul. Cod.
Th. & L.
Cod. Jul. vol.
tit.

Gratians last
Edict against
the Rapacity
of Governours
of Provinces.

98. The Course of matters now brings us at length to *Gratian*, of whom it's a wonder we have nothing all this while; that the Countries subject to his Command, should afford no work for his *Quæstor*. But this we are willing to Attribute to his former Care and Vigilance, for the more Laws any Nation wants, the more are Grievs and Necessities; for it cannot be supposed, that if Healthful and free from Distempers, the Prince its Physitian, would be ever and anon tampering with it. But notwithstanding, let none out of Ignorance, because he Reads of so many Laws now made by the Roman Emperours, for this one Reason, conclude the Empire to have been of a very sickly Temper; if so, the Disease lies in his own Head, which will be Cured by a Receipt of *Geography*, when he views the vast Tracts and Circumference of the Roman Pale. I suppose the Reader an Inhabitant of what was once some small pittance of the Empire, where he cannot but take notice, how many Edicts or Acts of State pass for the Government of even that small Plot of Ground. But when he surveys all the Provinces of this flourishing Dominion, from Mount *Atlas*, and the Streights of *Gibraltar*, passes as far as the utmost Extent of *Mesopotamia* and *Ostroëna*, and from the Banks of *Danubius* Crosses to the Southern Borders of *Ægypt* and *Mauritania*, he will not at all wonder, that we make mention yearly of so many Laws. But to come to *Gratian*, though he published no Edicts at this time for particular Direction in any point of Government, yet herein he seemed best to provide for his People, and take his Leave, by ordaining something for the Government of those who were subordinately to Govern them in their several Provinces; to prevent their Rapacious Preying upon them. Of their boldness in this point, some Complaint was made to him, not long before his Death, how besides their ordinary Allowances they were wont to exact of the Provincials, Money or Provisions for maintenance of their Houses. Upon hearing and deliberating hereof, he declared in Confistory, that every Judge or every Governour of a Province should himself furnish his *Prætorium* with Conveniences, and that neither to him nor any Comes should be more allowed, than by Imperial Authority, was granted in those Allowances they called *Annonæ* and *Cellaria*. By these two, generally are meant all Necessaries for Expence, and the Salaries of the Judges; which were also allowed to all, whom the Emperour sent for to Court, or dispatched elsewhere upon publick Business, both in the Mansions upon the way, and in the Places where they staid. But, as we have formerly said, by *Cellaria* are properly meant, Wine and Corn, or Necessaries for eating and drinking: by *Annonæ* all other sorts of things, as Gold, Silver, Clothes, Provisions for Horses, Attendance, Firing and the like. The Houses wherein they lived and administred Justice, were called *Prætoria*, usually placed in Cities that stood upon the High-ways or Streets, and furnished at the publick Charge, by a Set Allowance; But they were wont to live high, and exceed their Bounds, both the ordinary Governours and the Military Officers, or *Comites Rei Militaris* here

Vide l. 8. fundis Patrimonialibus &c. Cod. lib. 11. tit. 61. & Not

L. ult. de cio Judic omnium Pars Asto habitorum Confistorio tiani Aug Gratianus gustus dix. &c. Cod. lib. 1. tit. Abest à ci Just.

Sect.3.

here mentioned. This Abuse now *Gratian* endeavoured to prevent by this his Farewel to his People, it being the last Law we find that was made by him, as it is placed in the Code, although it bears no Date of Month or Day.

A.D.

383.

Maximus re-
bells against
him.

99. For in the month of *August* of this year he perished by the treason, some say of *Merobaudes* (or *Mellobaudes*) a *Magister Militum*, to be sure by the ambition of *Maximus* a Commander here in *Britain*. That *Maximus* was a *Britain* born, some will gather from the words of *Socrates* the Ecclesiastical Historian; and so *Christopher* our own Country man translates them; but being narrowly lookt into they will scarcely be found to ascertain any thing more, than that he rose and fell upon the Roman Empire from the parts of *Britain*. It matters little what Country it was that brought him forth; but *Zosimus*, who seldom agrees with other Writers, saith expressly, that by birth he was a *Spaniard*, and tells another sort of story concerning the occasion of this Rebellion, and the death of *Gratian*. Fetching his Narration from the Motions lately spoken of in *Illyricum*, he writes, that, during those Stirs, this Emperor was imbroiled in no small disadvantages. For, yielding to those who in Courts are wont to corrupt the manners of Princes, he kindly entertained some fugitive *Alans* which were listd in the Army, conferred on them great gifts, and so highly esteemed them, that in the mean time he seemed to make no reckoning of his own Soldiers. This brought him into no little odium amongst his own men, which daily increasng, at length drove into a seditious humour, amongst others, such as served here in the *British* Isles, who more indulged themselves in contumacy and perverseness than the rest. And they were further enraged, he saith, by *Maximus*, a *Spaniard* by Nation, who had been fellow-souldier with *Theodosius* in *Britain*, and took it in disdain that He should be accounted worthy of the Diadem, and himself of no honourable Place or Office. They being easie enough to be wrought on, conferred on him the Title of Emperor, gave him both a Diadem and Purple, which he had so long desired, and without delay shipped themselves and passed even to the mouth of the *Rhine*. The Armies that lay in that quarter were not difficult to be won, and joyn with them; but then *Gratian* came and offered them Battel, while no small number of the Souldiers still continued in their Fidelity. And when the Armies approached nearer, for five days they skirmished one with another, till the *Moors* all of themselves revolted, and gave to *Maximus* the Title of *Augustus*, while the rest also followed by little and little; which *Gratian* perceiving, and that his Affairs here were desperate, with three hundred Horse fled towards the *Alpes*, where when he found no security, he turned off toward *Rhetia*, *Noricum*, *Pannonia* and the upper *Mysia*. *Maximus*, though glad of the advantage, thought he was not to be suffered so to escape; but dispatched after him one *Andragathius*, his *Magister Equitum*, born near the *Euxine* Sea, who seemed to be fast and faithful to him, with such Horse as he thought would best hold out. He following on the Pursuit with all diligence, overtook him as he was going to pass the Bridge at *Singidunum*, and there killed him; by which Act he more established *Maximus* in his newly acquired Empire.

Zosimus his
story thereof.

Μαξιμος εν
των αει της
Βρετανίας
μεσων επαν-
στη Παλαι-
ων αρετων.
Maximus ex
partibus Brita-
nie oriundus.

Ιενα το γι-
ν.

100. Here *Zosimus* acquaints his Country-men, the *Gracians*, that it will not be amiss, but worth the while to tell them a story, which being commonly committed to memory is no whit impertinent to the present Purpose. In the Colleges of the Priests at *Rome* those called *Pontifices* held the chiefest place, which word, if translated into Greek, must be termed *Gephyraei* from Bridges, which name they got upon this occasion. At such time as Mortals were ignorant of that worship which afterward was rendred by Images; those of the Gods were first made in *Theffaly*; but whereas (you must know) there were neither yet any Places to put them in (for the Use of such Houses were also unknown) they placed those Representations upon the Bridge of the River *Penens*, and from the Bridge those who presided at the worship thereof were termed *Gephyraei*. Thence took the *Romans* their Title of *Pontifices*, and bestowed it upon their chief Priests, and withal ordained that their very Kings should be reckoned in their number, for the excellency of their Dignity. The first that obtained this Honour was *Numa*; after him all that went under the Name of Kings, and long after them *Octavianus* himself, and such as succeeded him in the *Roman* Empire. For as soon as any one came to be Emperor, he was presented by the *Pontifices* with the Sacerdotal Robe, and upon receipt thereof saluted with the Title of *Pontifex Maximus*. And all other Princes with a most willing mind received the Honour, and used the Title, and even *Constantine* himself, though (saith the

Sect. 3. *Pagan*) he forsook the right Path in Religious matters, and embraced the Faith of the Christians; and after him the rest in order, as far as *Valentinian* and *Valens*. But now when as, according to the Custom, the *Pontifices* presented *Gratian* with the Robe, he would by no means accept of what they offered, being of opinion that it was unlawful for a Christian to use the Habit. The Robe then being returned to the Priests, it was reported that He who was the chief amongst them said, that if the Emperor would not be *Pontifex Maximus*, in a short time a *Pontifex* should be made of a *Maximus*. And such end had the Empire of *Gratian*, saith this Historian, whose Tale concerning the *Pontifices* being so named from that Bridge of *Pons* is very pretty; and more pretty indeed than the story *Plutarch* relates concerning their being so named from the Bridge called *Pons Sublicius*, however ridiculous this Grave Writer esteems it; for it is easier to imagine them to have received their Name from a Bridge of their own, where Sacrifices also were offered, than from one distant so many hundred miles, at such a time when Travelling and Geography were not much in Use. As for his story concerning *Gratian* his being the first that renounced the Title of *Pontifex Maximus*, and refused the Robe, it's said by him, and deserves no credit, as we shall see in its proper place. But for his being killed at *Singidunum*, and as he was to go over the Bridge there, it deserves least belief at all; the concurrent Testimony of all Writers besides himself, being that he was slain at *Lugdunum* or *Lyons*. And *Baronius* would have the one mistaken or false copied for the other; but this is because he never considered what the man so idly talks of his flying to *Rhetia*, *Noricum*, *Pannonia* and *Myisia*, for in this Tract it was, that *Singidunum* and not *Lugdunum* is to be found. *Zosimus* this once was a better Geographer, we must acknowledge, than to look for *Lugdunum* here; but he was vilely mistaken in his Countries, and his Arithmetick.

His Tales
thereupon.

The true Account.

101. For all other Writers, as we said, agree that *Lugdunum* in *Gall*, was the place where he was killed, which was accompanied with these circumstances. That the Traitor might render himself more acceptable to the Souldiers, he pretended he was joyned in Affinity with *Theodosius*, and that as it were by his Consent and Allowance he set up for himself; nay he gave out, that he was descended of the Blood of *Constantine* the Great, of which this is some evidence, that he took the Cognomen of *Flavius*, for he called himself *Fl. Clemens Maximus*. But if he was thus descended, probably it was by the Mothers side, for so, if a *Britann* born, he might proceed from the Parents of *Helena*, the Mother of *Constantine*, which some reckon of *British* Blood. When first he rose up in Rebellion, *Gratian* despised him as a mean Man, and of no Interest; and therefore he only set the *Alans* against him, whom he had procured for money to serve in his wars. The old *Roman* Souldiers took this very ill, looking upon it as an Affront, that he should prefer Barbarians before them, in the point of Fidelity and Courage, and in anger revolted to *Maximus*, who promised them all kind things Imaginable. Hereat the Emperor affrighted, left *Triers*, where he had continued the month of *April* (as some pretend to find) and retired to *Paris*. The Usurper having notice hereof, and easily repulsed the *Alans*, followed him with all the haste he could make, and for five Days, being incamped near to one another, they skirmished in Parties; till first the *Moors* and then the rest deserted their Prince. Hereat more dismayed, with three hundred Horse he fled Southward, and, being denied admittance in other Cities, came to *Lyons*, and was, not long after, followed by *Maximus* and all his Forces, who first endeavoured by plain force to destroy him; but, when that would not do, betook himself to crafty Devices, wherewith he hoped, and that not in vain, to intrap him. He caused it to be given forth, that his Wife was coming to him, and intended to meet him on the hither side of the River *Rhone* which runs by the City. Then did he place in a Wagon made like a Litter, carried by Mules, not any Lady but a Ruffian, *Andragathus*, though he made the Report to go that it was the Empress her self; and the Plot took effect. For the poor Prince overjoyed to hear that his Wife was at hand, went forth to meet the Litter, with a few Persons, whom *Andragathus* perceiving near at Hand, leaped out with his Companions, and slew him in the Place: some say he was betrayed by *Merobaudes* the Consul; but so he perished when he had been *Augustus* full sixteen years, and lived about eight and twenty; on the twenty fifth of *August*.

102. A Prince, on whom Envy and Prejudice themselves can fasten no ill Character. Malice himself, or *Zosimus*, tells us, indeed; that he gave heed to such as are

Sect.3.

ie Chara-
r given him
Pagan
rites.

are wont to corrupt Princes, but nothing in particular, as to his ill Moralls: no doubt but he stood in great need of materials whereof to raise a Calumny. But *Ammianus* to tell us of his being drawn aside by Flatterers, yet not wherein; only he instances in his imitating *Commodus* in the killing of wild Beasts. A very great matter! an heinous crime for a young man of his years to delight in Hunting, and in so dextrous a way of killing; this is so idle an Objection, that though we prize *Marcellinus* very much; yet when we consider how vastly this Prince his humour differed from that of *Commodus*, nay how nothing he had suitable to that Monsters disposition, except what was harmless, we must needs excuse the wonder that *Baronius* justly conceives of this Authors meaning, that when he praises him, he should also blame him for following *Commodus* his course of life. And we must with him needs esteem him Partial and harsh against Christian Princes, and be of the Opinion, that had he known any thing ill by him, he would not have concealed it; especially *Zosimus*, who believing him to have been the first that refused the Title and Robe of *Pontifex Maximus*, could he have done it, would have cast all the Dirt upon him imaginable. In that he followed his Sports, and minded not the Affairs of the Empire so much as he should have done, as these Writers allege, he shewed himself young in years and guilty of that Neglect which many Princes of that Age are to Answer for; but which yet those amongst them that are well inclined usually make Amends for, when they come to riper years. But why may we not consider what great Commendations are given, and amongst the rest what Encomiums, by *Ausonius* his Schoolmaster, who had better reason than any other to know his Humour and Natural Inclination. It's true, what he saith is in a Panegyricall Oration, wherein he gives him thanks for the Honour of the Consulship he had put upon him; but yet the Oration being to be made publick he cannot lightly be presumed to have affirmed what he knew would be contradicted and laught at by all that saw or heard it; the matters thereof being fresh in memory.

A.D.
383.

*Ansonii ad
Gratianum
Imp. discipu-
lum gratiarum
actio pro Con-
sulatu.
Panegyric.
12.*

y *Ausonius*
is School-
master.

103. And the first thing he commends him for, we may easily believe, viz. "That the Palace or Emperors House which was terrible before, (in his Fathers time) he by his Clemency and Mildness had rendred pleasant and acceptable; the Courts of Justice formerly full of miserable complaints he by his favourable Decrees had made full of Acclamations and good Wishes. And the Bed it self, which was ordained for Rest and Quiet, was become more full of Repose through that tranquility he had procured to troubled and despairing Persons. All this is sufficiently attested by what we have already written concerning his giving a stop to those bloody prosecutions that were set on foot in his Fathers Reign. "But he further saith, that he was a valiant and warlike Prince, and for this he produces the Testimony of the Limits of the *Danube* and the *Rhine*, they being freed from all Hostility in one year; that he was most Munificent, he alleges the Experience of a Rich Army: for his great Wisdom he instances in the settlement of the East in so good a posture, meaning the promotion of *Theodosius*; and for his Piety or Dutifulness, the consecrating of his Father with Divine Honours (as he terms it, which was by reckoning him among the *Dei*) the preferring (or rather receiving) his Brother, as he did, to be his Colleague in the Sovereign Power; his vindicating his Uncles Fame when dead in War, by revenging his Death upon the *Goths*; his making *Ausonius* and his Son both *Præfects*, and at last advancing him, his Schoolmaster, to the highest Dignity of *Consul*, having also formerly procured him the place of *Quæstor*. As the custom of other Emperors was; he affirms that he might well assume the Surname of *Germanicus*, from the submission of the *Germans*, *Allemanicus*, from the Number of Captives; and *Sarmaticus* also, for his Conquering and Pardoning of that People. Now that he defeated an Army of the *Allemans*, consisting of thirty thousand men at *Argentarium*, a place in *Gall*, Writers affirm, and probably enough, he effected the Design of reducing the *Sarmatians*, of which his Father was frustrated by Death. But these things were memorable in *Gratian*, as a publick Person. As for his private Inclinations, Demeanour, and Qualities both of Mind and Body, "He affirms him, in the first place, to have passed no one day from his Youth without Prayer to God; without making some Vow, and discharging himself of it with an immaculate Conscience and a Pure Mind; nay, with thoughts true and upright; and to be sure with clean Hands. In Eating, no Priest could shew himself more ceremoniously abstinent; in Drinking, the Table of no old Man whatsoever could be found more frugal and sparing, as to Wine: the Altar of a Vestal

*Quod tu quum
terribile acce-
peris, amabile
præstitisti, &c.*

*Hesperius. Tunc
vixit videtur
duo simul
fuisse Præf.
Præf. per Gal-
lias. Vide Fa-
lesiam in Am-
mian. p. 392.*

*Vide Notæ in
Panegyric. Au-
sonii.*

Sect. 3.

Nun was not more pure than his closed Bedchamber; the Couch of no *Pontifex* more unspotted; nor the Pillow of any *Flamen* more chaste.

A. D.

383.

104. As to his Converse with his Friends; he did not come caven, but prevent them in all Offices of kindness; and if it so chanced that any of them first shewed him Respect, he blushed as much as a Private Man had reason, when prevented in Civility by an Emperor. His Consistory he compares to some *Sacrarium* or Chapel; wherein none had seat before him, who either more warily considered what he was to speak, more prudently dilated on what he had considered, or more maturely dispatched that whereon he had dilated. In the next place he tells him, He could discourse of his Abilities in Rhetorick, but that therein he should seem to gratifie himself. For in his Publick Speeches, *Sulpicius* himself was not more sharpe; *Gracchus* the elder more commendably modest; nor did his Father himself carry more Authority with his Gravity: So steddily was his voice when he spake more warmly; so exact in its Cadence when more remissly; and so temperately did he manage it in both cases. Proceeding to declare the virtues of his Oratory in this manner, at length he turns his Speech to *Xenophon* the *Athenian*, and tells him, "That, if Nature would permit it, he could wish he might return to life again; he who in declaring the virtues of *Cyrus* rather accommodated his Pen to his own Wishes, than the truth of an History; setting forth not what indeed he was, but what in reality he should have been." He tells him, that had he lived in these Days; in *Gratian* he might have perceived, what in *Cyrus* he did not find, but desired; and he instanceth thus: It's the part of a man most perfect not to do things of which he may have cause to repent; as for *Gratian* he never did any such things, and always pardoned them that did. It's an excellent thing to shew indulgence to those that are in fear; but he by his Edicts, perpetually to be had in remembrance for their Clemency, had put all men besides the very occasion of fearing. It's Magnificent to bestow Honours; but he had enriched the *Honorati*: It's Laudable for an Emperor to give easie Access, and not to pretend business; but he encouraged such as were slow to make known their Requests, and when they had opened their griefs, would ask them if they had nothing yet more to say. That Speech of the Emperor *Titus* is very famous, that he had lost that Day wherein he had done no man good; but it became famous because it was the Son of *Vespasian* that spake it, whose overmuch Parsimony, and such Austerity as was scarcely to be born, made the Lenity of his Son to be admired. Whereas *Gratian* the Son of *Valentinian* (whose Goodness was great, his Gentleness ever ready upon occasion, and his severity well tempered) in a well acquired and fitly ordered State knew well enough that he might use the greatest mildness imaginable, without any detriment unto Discipline. Neither did he (he tell him) do one single good thing in one Day, but multiplied every moment such favours as would last for Ages; and this he makes out by his remitting the Tributes which were remaining due to the Treasury. He demands what Emperor did ever more largely indulge his Provinces in this kind, more certainly provide for their security, or more prudently consult for their Defence? *Trajan* indeed, in old time, did something this way; but doing it by halves, that part which he remitted did not so much gratifie the concerned Persons, as the remainder afflicted them which they were to pay. *Antoninus*, in like manner, was kind to the People; but he that succeeded him in his Authority, though not in his Goodness (*Commodus*) required after his Death what his Father had forgiven, according as he found each one was behind in the Rolls. But *Gratian* had caused all the Records of these publick Debts to be publicly burnt; thereby to cut off all occasion of further vexing of his Subjects upon this Account. A joyful Sight it was in the Forum of every City, to see these Advantageous Fires which were made with the Piles of the Papers, wherein were reduced to Ashes the Originals of antient Frauds, together with the materials of future Oppressions. Now he again triumphingly asks the question, what could possibly be more Indulgent than his Scholar, or in Indulgence more advised? who took care that all the Benefits he bestowed should not be forfeited, and that the grievances he took away, might not come into a possibility of relapse.

Explained.

105. What he speaks here concerning the remitting of Tributes in part by *Trajan*; if we consider the Panegyricall Oration spoken to that Prince by *Pliny* the Younger, upon the same occasion that this of *Antoninus* was uttered, we must interpret concerning the *Vigesima* or twentieth part of Estates, which was first exacted

Sect. 3. exacted upon this occasion. *Augustus* when he considered what vast expence the State must needs be at, by Reason of so many Legions, and Bodies of Horse as necessarily were to be maintained; for defraying the Charge, required the twentieth part to be paid into the Treasury, of all Estates and Legacies that were left to Persons that were not very poor, or nearly related in Blood. But much oppression being hereby occasioned, *Nero* first, as *Pliny* tells *Trajan*, abated something the Rigour of the Exaction; but so, as it was rather to point at the Sore, and direct him to the Cure of it, than to heal the Distemper; which he effected so far as he intended, adding much to the Liberality of him that Adopted him. After him, it seems *Antoninus* also attempted something in this kind, which proved ineffectual; and the greatest Act of Grace and total Abolishing of the thing was reserved for *Gratian* his Bounty and Munificence. "And this his Master farther tells him, did not only extend to the Provincials, but the Senate and the Army also. *Trajan*, it's true, visited his sick Friends, and for that his gentleness was to be commended; but he both visited and healed them, found them Attendants, Victuals and Physick at his own charge, comforting them when sick, and rejoicing with them when recovered. If any Disaster had happened to the Army, he had seen him visit the Tents of the wounded, asking them how they fared, handling their wounds, and seeing them Dressed, or fit Applications speedily made to their several necessities. Some he had observed, who refused Meat, to receive it at his Recommendation; others to Recover upon his Chearing and encouraging them. The Baggage of some he would cause to be carried by his own Mules; to others he would appoint particular Carriage-Beasts; some supply with Servants, relieve the wants and cover the Nakedness of others; and this he did indefatigably, bountifully, with the greatest Picty imaginable, and without the least Ostentation. In Conclusion, he provided all things for the Sick, and upbraided none when restored to Health.

A.D.

383.

*Vide Notas
Catanai &
Rayani in Pa-
neg. Plinij.*

his gratitude
to his School-
master.

106. Thus he Illustrates his Goodness, and the Effects thereof towards all his Subjects; but, as became him, with much more Care and Passion he descants upon his Kindness to himself, and the occasion of his Discourse. "He joynd him in the Consulship, with a famous Person (*viz. Anicius Hermogenianus Olybrius*) and so joynd him, as to give him the Precedence, by preferring him in the Nomination. And this he did of his own Accord, when he never sought for it, never thought on it, nay, when there were many deserving Men else to be had, and no Merit could be pleaded on his part, except what was in the Opinion of the Emperor. But so it was, because what he might ascribe to his own Natural Parts, he attributed to the Industry of him his Master; for to this purpose in this manner he wrote to him. *I pay what I owe, and still I owe what I have said.* If therefore, any demanded of him how he came to this Honour, his Answer was ready: *None but God, or he that is next to him, can give Account of any Mans felicity.* If still such an one insisted on Merit, he replied, he could pretend none at all; only he could say, that *The Emperor himself said he ought it to him*; but this word was of a large acceptance, for he might mean thereby, either that this was the reward of the Instruction he received from him, or without that, he might find an Obligation meerly from his own Liberality towards an agreeable Object, or else he had tacitely obliged himself to it, or had received some Command from his Father to be kind to him that brought him up; or else by this Magnanimity he resolved to imitate the goodness of God himself. On the other side, *Ausonius* thinks himself obliged, that he had taught him, because He was the man pitched upon, when many other Persons excellent for Learning were passed by; but so it happened, lest He, who for this his Employment of Instructing him, had passed through all other Degrees of Honours by a strange Celerity of his reiterated good Offices should dye, before such time as the Scholar had Completed his gratitude to the highest Degree his Master was capable to receive. But for all this it might still be objected, that in former times there had been others that had taught the Emperours; and why should He carry away the Honour of having been in, a manner, sole Tutor to the Prince. As to this he replies modestly that he will not accuse those that were Collegues in the time of *Constantine* (meaning his Sons) but he would a little reflect upon the manners of former times. *Seneca* indeed was rich; but not Consul as He was, and some thought him rather to have Armed his Pupil for Cruelty, than instructed him against it. *Quintilian* also obtained Consular Ornaments, by means and procurement of Cle-

mens;

Sect. 3. *mens*, who was in great grace for a time with the Emperour *Domitian*; but he rather thereby procured some addition of Honour to his Name, than any Ensignes of Authority, being it seems, not made Ordinary but Titular or Honorary *Consul*; for his Name is not to be found in the *Fasti* or Catalogue of *Consuls*. As for this *Clemens*, by whose Intercession that learned *Spaniard* the Author of the Oratorian Institutions, got his Honour, there were two of that Name, viz. *M. Aricinius Clemens*, and *T. Flavius Clemens* his Cousin German, who for some time could do much with *Domitian*, under whom *Quintilian* flourished; but having been also *Consuls*, he who was constant to nothing that was good, caused them both to be put to death. A.D. 383.

107. In the next place he instanceth in *Titian*, who being also Tutor to an Emperour, and an excellent Person, yet taught afterward a Municipal School at *Vesontio* (now *Bezanson*) and died in Obscurity; which must have been *Julius Titianus* a Citizen of *Vesontio*, and afterward Schoolmaster at *Lyons*, who was Preceptor to *Maximinus* the younger; and by his Scholar, when *Cesar*, and his Father the Emperour, was promoted to the *Consulship*; but both they continuing not long in power, he destitute of Support, betook himself to the School of the *Municipium* of *Lyons*, wherein the Sons of all the Corporation were Taught. At length, he saith, he can only allow of *Fronto*, to be compared with him in his Employment and Reward; which Person being a singular Orator was the Instructor of the two Emperours *Antonini*, viz. *Marcus* the Philosopher, and *Verus* his Collegue. And yet had not he been honoured with the *Prefectship*, before he arrived at that of *Consul*; and for his *Consulship* it was but of those called *Subfecti*, who were substituted in the Room of the Dead to make up the year, as *Fronto* was but for two Months remaining; so that he might very well have left Recorded, in the *Consulship* of whom it was, that he was *Consul*. If any now should upbraid him with his mean Deserts, and demand of him (if he durst Compare himself with so great an Orator as *Fronto* was, he saith, he would only reply in brief, that he did not compare himself with him; but yet would prefer *Gratian* before *Antoninus*, even that *Gratian* who as to Power, was Emperour, as to Valour was a Conquerour; for Sanctity was *Augustus*; for his Religion a *Pontifex*; a Father as to Indulgence; in Age a Son; and in Piety or Duty Both of them together. For when he was imbroiled in a most difficult War, at such time as he was menaced by many Thousands of Barbarians, wherewith the Tract of the *Danube* was confronted, even then, Armed as he was, and in the Field, he held the *Comitia*, for Creating him *Consul*; and wrote to him that most obliging Letter, which we have already related at that year, and upon every word whereof, the obliged Master now boastingly descants, reflecting the glory back upon the grateful Scholar. He exceedingly glories in that he was pleased to send him as a Mark of his Honour, that *Trabea*, (or *Palmata*) viz. the *Consular* Robe which was worn by the Emperour *Constantius* himself, whom he calls his Parent, as being indeed the Father of his Wife. And he no less admires his Wisdome, in the Answer he gave to such as demanded of him to which of the *Consuls* he designed the first place, or Nomination; He told them there was no reason they should question who it was he intended to prefer, neither could any good generous Persons about him doubt of the matter. They that asked, hereat conceived hope, believing that that eminent Person, his Collegue, who was also at hand, must be the man.

108. Yet desiring to be put out of all pain and doubt, they made a second Demand, who should be the Man? At that he paused a little, and blushed with some disdain, that they should make a Doubt; and then replied, *Why do you ask who of the two designed Consuls should be first named? Who should have the first Nomination but he whom the Prefectship doth Capacitate for it?* He admires his wisdome, that by so sudden and discreet an Answer he should prevent that Envy which his Affection might have raised; and he applauds himself in that glory, whereby he was rendred no less than equal to *Cicero*. For *Cicero* gloried much herein, that the People of *Rome* had made him the First of the *Pretors* and the former of the *Consuls*; thereby hinting, that it was more glorious to be preferred before one, than many; for though it be no Disgrace to be a Second, yet it is great Renown when but two in the World can be thought fit, to be reckoned in the first place. It's reported of *Alexander* the great, that Reading those Verses in *Homer*, wherein, upon a Challenge made by *Hector*, out

Sect. 3. out of nine Captains, one Champion was to be chosen, and thereupon the Ar-
my prayed to *Jupiter*, that when it came to the Lot, one of these three, *viz.* *A.D.*
Ajax the Son of *Teucus*, or else *Agamemnon*, might be the Man, he professed, 3 8 3.
that He for his part, would have killed any that should have named him in the
third place. If this Courageous Prince would not amongst no fewer than nine
Persons have been named in the third place, wherein he should have been pre-
ferred before the greater number, how would he have been troubled, if of two,
he had been made the second in order? For when only two are designed,
the Choice must needs be very difficult. As when two Persons are preferred,
before all other Mortals to be made Consuls, he who hath the preheminance
over the other, is preferred not only before one, but all mankind besides. So
great was the Favour, and high was the Honour he acknowledges to have been
conferred on him, which yet was more transcendent by the respect he shewed
to him, in gracing him with his Presence at his first Promotion. For when he
named him *Consul*, the Emperour was then at *Sirminum* in *Pannonia*, and *Au-*
sonius was in *Gall*, of which he had borne the Prefectship; and yet it seems
he took so long a Journey to see him assume the Ensignes of his Authority,
that therein he rather flew than roled, there being he saith no story of such
speed told, no not in the Audacious Fables of the *Greeks*. He dares the Fable
of *Pegasus*, despises the Stories of *Cyllarus* and *Arion*. For the *Hierles* of *Ca-*
stor and *Pollux* performed their Journey with the Change of their Riders, and some
Rest. But *Gratian* flew over so many Limits of the Roman Empire, so many Rivers, so
many Lakes, and the Bounds of so many antient Kingdoms; from *Thrace*, through
all the Tract of *Illyrium* (how large soever) through *Venetia*, *Liguria*, Old *Gall*
(as he terms *Gallia Cisalpina*) the insuperable places of *Retia*, the Borders of
Rhine, the unpassable Coasts of the *Scime*, and the spacious Parts of the lower
Germany, with greater expedition than he could write it, without any Repose
so much as taking any moderate Sleep, or kind of Sustenance. And all this was
to grace or put some Honour upon his *Gall*, that he might anticipate his new
Consul; and make Fame, which was wont to be swifter than the wind, to ap-
pear slow, by his preventing it; so much did he allow to the old Age, and the
Reputation of his Master; whose *Curule* Chaire, whose *Prætexta*, tinted by his
Purple, whose *Trabea*, (rendred more Illustrious by the kindness of him that
sent it, than conspicuous for the Gold it had in it) which he made his, by
what he had done in *Illyrium*, he had rendred much more Celebrious by what
he had performed in *Gall*. But so he delighted to honour him, who could say
that he was his *Questor*, next boast that he was his *Præfectus Prætorio*, after
that, glory that he was his *Consul*, but above all (and which the Emperour
prized above every thing) that he was his *Præceptor*, and as such piously
had declared him, justly had preferred him before his Collegue, liberally had
enriched him; and by his Imperial grace and favour, through all good Offices
had so Consecrated him.

109. Now in way of Gratitude and Return for all his Kindnesses, he confes-
sed, that though *Cicero* having arrived at the Consulship, denied that there was
any other thing which he thirsted after; yet he professes, that though he was
both *Consul*, and an old Man, yet he was still greedy after something else. You
may well imagine what this was, *viz.* often to see him his Pupil, Cloathed
with the Ensignes of that Magistracy, that he alone might equal the sixth Con-
sulship of *Valerius Corvus*, the seventh, of *Cains Marius*, nay, the thirteenth
of his Namesake *Augustus*, meaning *Octavianus* or him that first obtained that
Surname. He tells him, that for his wonderful Charity and Goodness (former-
ly related) he had rendred himself more deare to all men than their own safe-
ty; all his friends he had made obnoxious; and such as for ever would re-
main ready, devout and faithful to do him Service; being such friends, as his
own Inducements had procured him, and not Fortune. And from this more
just than well grounded Confidence, he turns his Speech to him that would
be more Righteous than those he had obliged; even the Eternal-Maker of
the World himself, who Chuseth to inhabit, as he saith, in the Minds of those
who have Cordially given up themselves to his Service, and therein makes
Temples and Altars for his own Worship; acknowledging him to have so firm-
ly planted the Love of him in the Emperours Heart, that Absence had not
made him at all more Cool therein but he had remembered him though at
a distance, had conferred Honour on him when Absent, and had prefer'd him
before

Sect. 3. before those that were present and in his Sight. Such was the fence that *Ausonius* had of this favour, expressed in very Oratorical and Poetical words, which though not convenient to be here rendred as they are in his Oration; yet we thought fit to give the Reader an Account thereof. Both for that Learned men think it fit, that Youth should be acquainted with his *Panegyrick*, and for that it acquaints us very much with the humour and Disposition of *Gratian*. For although the Phrase be very Poetical, and the Expressions hyperbolical, yet it represents to us in a Table, finely painted out and imbellished, what *Ammianus* himself in a rough and coarse draught had done toward the Characterising of this Prince, when he tells us, that *By his towardsly Inclination he gained much upon the People, being a Youth well disposed, Eloquent in Speech, and Soldier enough for his time.* As for those rough Lines he draws to make him have a Cast of *Commodus* his eye towards something on one side; when upon better View, this Object appears but a Herd of Deer or Wild-Beasts; it rather directs us to a Forest or Land-skip, than any ill Features, glance or squinting of this Person, especially if in an harmless Exercise, he behaved himself so gallantly, and demeaned himself with that Manliness and Dexterity, as the Panegyrist tells us. But first, if you will, let us take a View of him as he describes him on Foot, and then see how he performed his Exercises on Horseback.

110. Having after the performing of his Devotions brought him out of his Closet with a mind as well as Body altogether washed and pure, as he walks he thus points unto him. Whose Coming forth did ever portend better things? Whose Gate was more modest? Whose behaviour more weighed? Whose familiar Conversation more Decent? Or whose Military Behaviour more to purpose, or, as our Neighbours would say, more a *droit*? In exercising his Body, who ever ran more swiftly? Who Wrestled, or did any other sort of Activity more cleverly (as now we speak?) who ever Leaped higher or more nimbly? No man ever could throw any thing to a greater distance, no man cast his Darts more thick, or more certainly hit the Mark. We wonder, saith he, at the Poet (meaning *Virgil*) for terming the *Numidians*, *Infrænos*, or those that need not to use any Bridle on their Horses, which were wont to be governed with a Rod alone; and at another Writer who talks of a Stroak of a Switch being a sufficient hint either to go or stay. All this was a Riddle to them that read it, till they beheld him when Mounted, bending his Bow, laying the Reins on the Horse his Neck, when he pleased, meerly with a Switch putting him on, and with one stroak of the same, giving a stop to his highest Carriere. They who pretended to teach him this, could not do it themselves; nay, they were now content to learn of him. Thus we see the Horsemanship and other Parts of a Cavalier described by him that was his Master in a more Noble Academy of the two, and we could wish he had been as happy in his Predictions as in his Instructions and Observations; the only thing we lament in his *Panegyrick*, as not having such ground for it's Truth, is, that by his wonderful goodness he had rendred himself more dear to all men, than their own safety; that all his Friends he had made obnoxious, and such as for ever would remain ready, devout, and faithful at his Service. The Event did not prove it, however such was the Desire and Prayer of *Ausonius*, who if he wished to him according to what he believed him to deserve, he was equitable, though not successful in his desires of the prosperity of so excellent a Person, however it seemed not good to the All-wise Creator of the World (to whom he addressed himself) to give him his Portion and Reward in this Life. As herein he is to be commended, so excused, in his Poetical Flourishes, and possibly more Luxuriant Expressions than the nicety of simple and plain Truth would bear. For the Honour and profit he himself reaped from so grateful a Scholar could not give him near so much Satisfaction as the contentment and Joy he received in being delivered from a vexatious tormenting disappointment. When after a Melancholick Reflexion upon his former hopes conceived of doing Service to the Publick, from the Quality and Parts of the Youth; after many years spent, and much Labour lost, he should have been forced to quit the unpleasant Object with no more returnable a Sentiment than that of *Operam & oleum perdidit*.

*Cujus ante
unquam co-
sies aushi-
fuit, aut
cessus mod-*

SECT. IV.

From the Murder of Gratian, to the Murder of Valentinian the Second, his Brother, and the last of the Family.

The Space of eight Years, and about ten Months.

After Valentinian's death, Maximus rages against his followers.

1. **G** *Ratian* being dead, the fury and Rage of *Maximus* the Tyrant died not with him; but extended to several of his Friends in *Gall*, amongst whom none more eminent than *Merobaudes* and *Ballio*. *Merobaudes* bore the Title of *Consul* this year; but after those illustrious Offices he discharged, and his Consular Purple, was put to death; and the other, (by *Pacatus* in his Panegyric Oration to *Theodosius* called *Vallio*) was driven to that Desperation, that for fear of Cruel Torments he killed himself, as *St. Ambrose* writes, who tells *Valentinian* what passed betwixt himself and the Tyrant upon this occasion. For, when he went on an Embassy to him, being upbraided it seems, with the Death of *Gratian's* followers; the Tyrant answered, Whom have I caused to be slain? The Bishop answered, *Ballio*; and how excellent a Person? how great a Soldier? was that any Just Cause for his Banishment that he kept himself faithful to his Prince? To this he replied, I did not command him to be kill'd. But, saith the Bishop, we heard there was Order given for his Death. And the Usurper acknowledged, that if he had not offered violence to himself, he had ordered him to be conveyed to *Cabillonum*, and there burnt alive. Whereupon, the Bishop ended that Discourse, telling him, that therefore it was believed, he was made away by his Command, complaining, that no Man could expect to be safe, if so great a Commander, so valiant a Soldier, and so deserving a Person could not be spared. And he writes that *Bauto*, who in the seventh year of *Theodosius* his Reign, was *Consul*, and before whom *St. Augustine* then read a Lecture for the place of Professor of Rhetorick at *Milan*, was also in Danger to have been sentenced to dye, as if he had been another *Ballio*. *Pacatus* saith he might have more specious pretence for his Cruelty against them, because both of them had served in the Army under *Gratian*, and that this Prince lov'd them both. Therefore it's justly wondred, that *Prosper* in his *Chronicon*, should say, that *Gratian* was overthrown and slain through the Treachery of *Merobaudes* the *Magister Militum*; though by some, this *Merobaudes* is thought to have been some other Person, and not *Merobaudes* the *Consul* of the present year. Now if you will know how farther the Usurper behaved himself after his Success against his lawful Sovereign, and those of his Friends that could do him most prejudice, and disturb him in his unjust got Possessions, you may hear *Pacatus* how he bemoans to *Theodosius* his Country of *Gall* after this manner.

Vide Barop. ad hunc Annum 12. & Hist. Val. Notis in Panegyric. Pacat.

Pacatus his Description of his Extravagancies in Gall.

2. And whence shall I begin to make a Relation of those Mischiefs, which this Tyrant *Maximus* brought upon the Western Provinces, but at the Calamities sustained by thee my dear Country, which of all the Countries infested by this Plague, may'st truly Challenge to thy self, the Privilege of Miseries, being constrained, not only with thine Ears, (the Sense of which is more obtuse) but with thine Eyes also to behold his Victory, and the Destruction of *Gratian*. It's true; our next Neighbour the *Italian*, and the *Spaniard* also, had great reason to feel the wound; yet both of them in their grief may receive some Comfort, in that one of them saw nothing of the Tyranny it self, and the other beheld the down-fall of the Tyrant. We first of all sustained the Fury of that Savage-Beast, we first glutted his ravenous Appetite with the Blood of Innocents, and his Covetous, by our publick Desolation. His Cruelty, now secure and at Ease, had it's full scope amongst us; and his Avarice as yet beggarly and more craving. In other places this publick Mischief, either began or

Sect. 4.

ended, in Gall it reposed it self and continued. Who can compare himself for Misery with us; when we bore the burthen of the Tyranny both with others and alone by our selves? Why should I make mention of the Cities emptied of their best Inhabitants, the Deserts even filled with Noble Persons that fled their Countries; the Estates of those Persons set to Sale, who had once enjoyed the greatest Honours; their Persons proscribed, and their very Lives valued at a sum of money? In our days we have seen Dignities reduced, Men of Consular Degree stripped of their Robes, we have beheld old Men who outlived their Fortunes, and Infants securely and innocently playing under the Eye of those Officers who were selling their Patrimonies. Yet thus miserable though we were were we forbidden to demean our selves as miserable Persons; nay, on the contrary, forced to Act the part of happy Men, and only at home and in our own Houses having but permitted our Wives and Children to be Witnesses of our grief, we went abroad with a Vizarded Countenance not at all agreeing with our Fortune. For you might hear some Informer talk after this Rate: *Why looks he so Melancholick? Because, of a Rich Man he is become Poor? May he not be glad he lives? Why hath this other put on Black? I believe he mourns for his Brother, but he has yet a Son.* Therefore we durst not bewail those we lost, for fear of losing those that remained. But we put on Serene Countenances over heavy and Cloudy Mindes, in like manner as they that taste of the Juice of some Herbes in *Sardinia*, are reported to dye Laughing. We mourned, and yet made ourselves merry. It's some alleviation to Sorrow, when one may weep it out; and the Breast is eased with Sighing. And there can be no greater pain than to be miserable, but one must not seem so. There was no hope of satiating this publick Robber; for, Satiety which is natural in other Cases, was not produced in him by plenty and Abundance; his Hunger of Having daily increased, and what he had already, did but irritate his Appetite after more. As Drink kindles the Thirst of sick Persons; as Fire is not extinguishd by dry Fuel, but it's Rage increased, so was his greedy and hungry Mind still whetted by the devouring of that Wealth which he heaped up by impoverishing all other Men.

3. He himself, in Purple as he was, stood by the weigh-Scales, and with a pale and gaping Face, observed every motion and Inclination of the Balance, not abating one single Grain. The spoils of Provinces, what was left by the Exiled, and the goods of such as were Murdered, were brought in on heaps. Here lay Gold pulled violently from off the Arms and Fingers of Matrons, there Necklaces torne from about the Necks of Orpkans, and hard by might be seen Silver, ready for the Ballance all besmeared with the Blood of the Owners. Every where was to be perceived telling of Mony, carrying and lugging of Bags into the Treasury, laying heaps upon heaps, and the breaking and cracking of Tables and Vessels to be heard, so that any one who saw the Sight would have imagined the place to have been some Den and Receptacle of a Thief, and not the Habitation of an Emperour: But a Thief uses (or rather abuses) what he has got, and what he takes from others as it were restores to himself; neither doth he observe and lye in wait to hoard up and bury Wealth, and at the same time to be wicked and wretched; but that he may gratify his Palate and his Belly, and not want supply for his lavish Expences: for he is careless, and profuse with the same easiness, both as to getting and spending. But that Pirate of ours, amassed up together in that *Charybdis* of his Den, whatever he had got from all Quarters, where it should be utterly lost, without doing us or himself any good. *Charybdis* do I call it? This Gulf is reported, though it swallow up whole and intire Vessels, yet to slight and reject Shipwracks, and cast them up upon the Opposite Shoars. But our Goods went in one certain and constant Road, to the Treasury, which common Whirlpit, not at all glutted with what it devoured, Vomitted up nothing at all it had once swallowed down. It's the usual and last Excuse that Bad Princes make; that they take on purpose that they may give, and they deprecate the Injury of their Rapines and Oppressions by the greatness of their Bounty. But what thinke you of one who takes from all on purpose that none may have what he takes? The Covetousness of private Persons, though ill in it self, yet hath this to say, that there was fear of Poverty, that one must lay up for old Age, and provide for Posterity; but what Cause doth He alleage for his Covetousness, who hath at his Command what ever in any place is to be had? I for my part (if a

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4 Mortal Man may dare to make a Judgment of what is Coelestial (he speaks to an Emperour) do believe that Princes have no greater felicity in this world than to make other persons as happy as they can, to relieve those that are oppressed by Poverty and want; to overcome Fortune, and confer a New Fate upon a Miserable Man. And therefore an Emperour who well considers the greatness of his Condition; should not call his own so much what he has taken away, as that which he hath given. For all things being in his Power, and as the Ocean, comprizing every thing within its own Circuit, what Waters it gives to several Parts of the Earth, from the Earth it receivethem; so whatsoever out of Bounty is contributed from the Prince to his Subjects, returns again into the Prince his Coffers. So that a munificent Prince consults both his own Fame and his Advantage; for he both purchaseth Fame by what he doth, and he but lays out Money, which will again reverte into his own Purse.

4. But what's to be said to one, to whom every thing praise-worthy seemeth foolish, who both, as every wicked Man doth, hateth all good Examples, and placing his chiefest felicity in a power of having and hurting, bent his endeavour not only how to get, but how to leave nothing remaining to those from whom he took it? For he did not practise what Princes are wont to do, in digging and improving of Mines, thereby to draw into publick Profit, what Nature had concealed within her own Womb; and find out a Treasure there, where none should be the poorer for its Discovery. He did not reckon that Gold of any value, which was digged out of the Veins of the Earth, or taken from the Gravel of Rivers; but esteemed that most pure and refined which was extorted from those who wept when they parted from it; which was washed with the Tears of Men, not with the water of Rivers; not digged out of the Cavities of the Earth, but torne from the Necks and Throats of such as were Slain. Therefore upon fearful apprehension of the Pen (for proscription) as well as the Sword of the Tyrant, Poverty became a thing vowed, and, so that the Hangman might be avoided, the Officer of Confiscations was willingly submitted to. Then having related what we have said concerning the Death of *Merobaudes*, and *Ballio*, he adds, that besides this, he can speak of Blood drawn from the Female Sex, and of Cruelty against them whom Wars are wont to spare, however otherwise Cruelly Managed. And he instanceth, in a certain Matron, which he put to Death for her Religion; and inveighs against the Cruelty and Bloodthirstiness of some Priests. Hereby probably he means some Woman he thus punished for the Heresy of *Priscillian*, as he did several others, being the first that ever inflicted Death for Religion, which Course (since that time too common amongst Christians) *St. Martin* the Bishop of *Tours* earnestly opposed; but it was urged and prosecuted by *Idacius* and *Ithacius* two other Bishops, for which they were removed from Communion by the rest of their Brethren. But of this more largely in its proper place. We see how *Pacatus* describes the Demeanour of *Maximus* toward his Country-men the *Galls*, but we must read him with some allowance to his Passion and Panegyricall strain, others (but possibly such as never smarted) allowing *Maximus* tollerable qualities, had he not obtained his Power by Rebellion and the Murther of his Sovereign. But to secure his Dominion however got, rather than believing himself sufficiently and safely settled therein, as *Zosimus* writes, he sent as Ambassador to *Theodosius*, the *Præfect* of his Bedchamber, no Eunuch (which sort of Men he could not endure) but a grave Man, and one of his most Antient Acquaintance. He asked no Pardon for what had been done against *Gratian*; but offered Peace, and to enter into a League and Society against any Enemies of the *Roman Empire*, or, if he was otherwise inclined, he denounced War. *Theodosius* seemed to be willing to admit him Emperour, and that his Statues should be erected with his own, resolving with himself to make War upon him, when it should be convenient, and in the mean time to circumvent him with a Show of all manner of observance. Therefore when he sent away *Cynegius* the *Præfect* into *Ægypt*, with Order to prohibit the Worship of the Gods, and shut up the Temples, he also Commanded him to expose at *Alexandria* to publick view the Image of *Maximus*; and in an Oration to the People, to declare him his Consort in the Empire. This *Cynegius* performed, and withal, shut up all Access to the Temples through the *East*, all *Ægypt* and *Alexandria*; and prohibited the Sacrifices which in all Ages had been used, with the Worship belonging to the place. But what things from that time to this have hapned to the *Roman Empire*, shall particularly hereafter be related. Thus writes *Zosimus* the Pagan Writer, and great Back-Friend to *Theodosius* upon this account,

Maximus is made to Panegyricall strain.

Maximus is to offer a cage to Theodosius.

he seems to be willing to admit him as Colleague.

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4. whose Falsities have been already laid open, and hereafter his Malice and blind Zeal may be more discovered.

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5. The End and Design of *Theodosius* his pleasing the Tyrant, for the time, seems to have been his care for the preservation of *Valentinian*; and his fear, lest proceeding in his fury, he should, after having brought *Brittain*, *Gall* and *Spain* under his Yoke, pass also the *Alpes*, and, with as much ease, destroy that young and helpless Prince. And in *Italy* they were all seized with a mighty consternation, expecting nothing but that the Tempest would speedily beat their Door; and not knowing what course to take, at length *Ambrose* the Bishop of *Milau* was sent upon a desperate Employment, to see if by the repute of his Gravity and Sanctity he could work upon the ambitious humour of the man, and reason him out of his extravagant heat and thirst of Domineering over so many Mortals. And he seems to have wrought so far with him, that he gave some stop to his Career, and for this year we shall hear no further of him. As for *Valentinian*, he could not be but very solicitous, seeing his Neighbours House not only on fire, but burnt to the ground; and for that he seems at this time to have born no good will to some that were near about him, we are afraid he doubted something of their Integrity. These were his two *Comites*, *Rei Privata*, and *Largitionum*, from whom he took the Power of hearing Fiscal Causes in Appeals about this very time, when made from the under-Officers of the Revenue, called *Rationales*, and ordered them to lye in private Causes, to the Judges of the Provinces, who had this cognisance, viz. to *Proconsuls*, the *Comites* of *Dioceses* and the *Vicars*. If from these no Appeal should be fit to be made, he wills that the Parties concerned have recourse to the Prince himself, who is to be informed of the state of matters and the true merits of the Causes, by the *Comes Largitionum* and *Rei Privata*, as they have relation to each of their Employments. This Law is directed to *Ammianus*, his *Comes Rei Privata*; and about this time *Symmachus*, who shortly after was *Præfect* of the City, in an Epistle to *Theodosius* the Emperor, makes mention of one *Ammianus* and one *Macedonius*, both who had deserved ill of the Commonwealth, and the hearing of whom had been referred to himself. *Ammianus*, died as he was brought by the Protectors towards *Rome*; and as for *Macedonius* he could not tell what was become of him, and he desires the Emperor that the delay may not be laid to his Charge, and that he would send him more particular Instructions for his tryal. Now there is one *Macedonius* in the Code of *Theodosius*, to whom a Law is inscribed concerning Appeals, but two years before, by the Title of *Comes S. Largitionum*.

Valentinian
the
wer of two
his great
Officers.

L. 41. de
pellation.
Cod. Th. vi
Com.

Lib. 10. l.
49.

L. 39. sup.

Theodosius in-
courage his
Judges.

Restrains the
Ambition of
those that
aspired after
Honours.

6. *Theodosius*, after the death of *Gratian* continued all the remaining part of the year at *Constantinople*, where he made two or three Laws, of which it will not be amiss to take notice. He took care for maintaining the just Revenue due to his Judges, by declaring, that for Mulcts imposed merely for Contumacy, should lye no Appeal; for if a Magistrate cannot this way maintain his jurisdiction, his Power must needs be vain and precarious. But he found at this time in most sorts of persons a vast Ambition and desire of precedence, which transported many so far, that by one means or other they procured Letters or Codicils of the greatest Dignities, that they might leap over the Heads of deserving Persons, and such as with commendation had discharged Offices of a middle Nature. This caused great Animosities, and put all things out of due order and decorum; insomuch that by a publick Constitution he thought himself obliged to take notice of it, and provide for a redress of a matter of so ill consequence. He delivers therein his sense of it as a thing, than which nothing could be more injurious, and against preserving Degrees of Dignities; for how could Merit be rewarded where, without any consideration of services performed, men intruded into places of Honour, whereby best deserving persons were deprived of their due, and those of inferior Merit obtained what belonged not unto them. After this Preface he declares what course he will have observed, as to Honorary Codicils, that such as have been preferred by them, or by the meer favour of the Prince, shall come below them that have been advanced for their services, or have obtained Codicils also by the prerogative of their Merits. He prescribes a Rule also to be observed in the bestowing of Codicils; that such as had discharged Offices, should not only be preferred before such as had merely titular; but amongst those that obtained Meer titular Codicils also a respect should be had to them that were of most desert. So far he prefers merit before these Letters, that to those that obtain them he assigns Place and degree inferior to what otherwise the Title of

L. 2. Quor
Appell. non
ip. Cod. Th.
Abell. à Co
Just.

L. 1. Ut Di
nitatum Or
servetur. Ci
Th. lib. 6.
5. Abell. à
Just.

L. 7. de Ho
rariis Codic
lis Cod. Th.

the

Sect. 4. the Dignity was wont to obtain. So that in case a *Vicar* of a *Præfect*, after the " Office of *Vicar* discharged, obtained honorary Letters of a *Præfectship*, he should " not only not have place amongst the *Præfects* themselves, but take his place " amongst *Proconsulares*, or those of the next Degree or Rank, as it should fall to " him; but so as to preceed such as were of this Rank merely by Codicils. In " like manner if an ordinary Judge or Governour of a Province (*viz.* a *Consula-* " *ris* or *President*) should procure Letters for the place of a *Præfect* or *Proconsula-* " *ris*, such an one should come behind a *Vicar*, one who had really discharged " the Office; and if a *President* procured these Codicils, if a *Consularis* also pro- " cured the like, he should be preferred. This was new Law and unknown to for- " mer Princes, except what *Valentinian* the Elder did ordain in a special Case. But so extraordinary was the Ambition of this Age, that it required a remedy suitable to the Distemper.

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7. Nay farther than this, he ordains that no Person shall obtain Honora- " ry Codicils of any Dignity, but the very next preceeding the place he bears, and " thereby absolutely Prohibits all promotions *per saltum*, by virtue of any such " unseasonable Letters; as preferments in Military Employments were prohibited to " be made. The punishment he inflicts upon such as violate this Law, is double; " for he wills both that they be deprived of the Honour obtained contrary to " the meaning of it, and moreover be fined in no less a sum than twenty pounds " of Gold. This is further from this Law to be observed, that the Rank of Digni- " ties at this time was thus Constituted, *viz.* *Præfects*, *Proconsuls*, *Vicars*, *Consulares*, " and then *Presidents*; for *Proconsuls* had the second place. And we may also take " notice that by *Ordinary Powers* it means Governors of Provinces; and these two, " namely *Correctors* and *Presidents* were distinguished not only from the *Illustrious*, " as the *Præfecti Pretorio*; but those that had no more than the Title of *Speſtabilis*, " as the *Proconsuls* and *Vicars*, being also by other Laws distinguished from them " that were termed the *Greater Powers*; although when *Ammianus* the Historian " writes of *Ordinary Judges* and *Ordinary Powers*, he means such Magistrates as they " were, contradistinct to the Military. But such was the Ambition of this Age " which caused *Theodosius* to be so peremptory and effectual in the cure of the Di- " stemper, a Disease which so far prevailed, that in the Senate House also it infect- " ed those that were richer than their Neighbours, insomuch that they would " speak their Opinions first, contrary to the antient custom which gave priority of " Speech according to Offices and Employments, and not according to the greatness " of Estates. The old custom *Theodosius* ordered the Senate to recall, and *Symma-* " *chus* gave him thanks for so doing, as also for the power he gave them to lessen " the charge of Games, which the *Pretors* were wont to be at. And he desires him " by his Decree to confirm what the Fathers by his order had resolved on as to " these or other matters, and give them force by a penalty inflicted upon Trans- " gressors. By these Reforms he saith, they believed vertue was again return- " ed to its Dominion and Sway that it had in old time. And indeed the way to " have Vertue return, was, to fright away Vice by the severity of Laws; which this " Emperor yet further attempted now at the closing of the year. This was by pub- " lishing an Edict against Calumniators or false Accusers, requiring that such should " be punished as Law required after their conviction, or clearing of the Party ac- " cused, without being admitted to any new Accusation upon pretence of having " now other matter, or having found out new proofs, which these men often pre- " tended, thereby to evade the Censure they were for their Malice and Falseness to " undergo. This Edict is directed to one *Hellebicus* as *Comes* and *Magister* of both " sorts of the Militia; or both of Horse and Foot.

Lib. 10. Ep. 21.

Credimus igitur
his remotis
ad regnum su-
um rediſſe
virtutes.L. 1. de Calum-
niatoribus.
Cod. Th. lib. 9.
tit. 39. Dat. 3.
Kal. Jan.
Abest. à Cod.
Just.He restrains
false Accusers.Prætextatus
the Præfect of
Italy dies.

8. The year next ensuing or the CCCLXXXIV of our Lord, the twelfth " Indiction, and the ninth of *Valentinian* the Second, had for Consuls *Fl. Ricimeres* " and *Fl. Clearchus*. *Cynegius* for this and five years following was *Præfectus Pre-* " *torio* of the East. *Prætextatus* was *Præfect* of Italy, and so was *Probus*, as ap- " pears from other testimonies besides the Laws, who seems to have succeeded up- " on the death of the other. For much what about this time it was that *Symma-* " *chus*, who was *Præfect* of Rome, by an Epistle signified the death of *Vettius Pre-* " *textatus* to *Valentinian* the Emperor. "He tells him that though he supposed Fame, " than which nothing is swifter, would prevent his Narration, yet he cannot be " silent, but compelled thereto by the Necessity of his publick Office, must acquaint " him with the departure of this *Illustrious* Person, to the great regret of his Coun- " try, of which he was a singular Ornament. Whose commendations however " just "

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Fl. Rici-
mere &
Fl. Clear-
cho Cos.

Lib. 10. Ep. 24.

Sect. 4.

Symmachus
the *Præfēt* of
the City, de-
sires of the
Emperors that
Statues may
be erected to
his Memory.

just he should in this consternation of mind pass over, there being no need to " *A.D.*
inlarge in his praise, seeing the Emperor himself could well attest the glory of " *38*
his life, and his death was rendered famous by the grief of all men. In another " *Ep. 25.*
Epistle directed to the other Emperors, *Theodosius* and *Arcadius*, he writes, that "
though *Vettius Prætextatus* was by the Law of Nature dissolved, yet still he lived "
in the memory and love of all men, and in this thing punished Envy it self, that "
even Death so much contributed to his glory, that herein also she ought to "
grudge him his good fortune. For besides the grief of the whole Roman peo- "
ple conceived for the loss of him, the Senate, also being impatient upon the same "
account, desires, saith he, some comfort from that Honour which is due to vir- "
tue; and beseeches you that a man to be wondered at in our Age, may by the "
Diuturnity of Statues be delivered over to the Eyes of posterity; not that he "
covets any earthly Rewards, who when he was living trampled upon corporal "
pleasures as contemptible things; but because Imitation is incited by honour given "
to good men; and emulous virtue receives strength from the pattern of Respect "
that's given to another Person. Hence came it to pass that even in less polished, "
or in rustick ages (as he terms them) the best Commonwealths-men were by "
Hand and Art committed to memory. And I wish that in after-times the faci- "
lity of some Flatterers had not derogated from this decent custom; although "
neither are such things to be esteemed equal, which by unsuitable ways are "
procured.

9. It's very fitting, therefore that he who remains in the Breasts of all men, "
should also stand in the Eyes of most: He who was always greater than the Of- "
fices of Magistracy which he bore, was moderate towards other Persons, but se- "
vere towards himself, easie without contempt, and of reverend Demeanour with- "
out terror. To whom if any profit came by succession, it reverted to the kindred "
of the Testator. He whom Prosperity could not alter, never rejoiced in the "
Adversity of other men, and knew not how to be indecently liberal: He whom "
Honour alway found unwilling though it courted him, to whose Justice and Equi- "
ty every of his Neighbours would willingly trust the measuring and limiting out "
their adjacent Grounds. He adds that he would say more, and ought more to "
say, but that all things are to be referred to them to whom he writes; whom "
he beseeches, that as Patrons of Honesty and Goodness, they would set forth "
what goodness was in their times to be seen to such as should come after. For "
this was that *Prætextatus*, whom justly they had made *Consul*, that the Register "
at least might transmit his famous Name. He prays them that they would by re- "
pairing fatal losses, do good to those that were left behind. Though the man de- "
parted with a Reward, yet he intreats that their judgement of him might still "
continue; that they would make it appear, that Accidents can do no prejudice "
to glory: for what he merited from his Country was altogether singular; but "
what he had now lost was common to many, or indeed to all. In this manner "
doth the *Præfēt* bewail the death of his Friend; which though it be a little tedious "
here to insert, yet the Reader may hereby take notice of this Custom of erecting "
Statues by order of the Emperors to Deserving Persons, as it was done to this *Præ-*
textatus; as also that the Senate sometimes requested it, and that by the mouth or "
Pen of the *Præfēt*. But whereas he tells the Emperors that they had made him "
Consul, that the *Fasti* or Registers might transmit his Name to Posterity; it ought "
to be known that he was only designed *Consul*, and died before he came to re- "
ceive the Ensigns of that Honour. But this is that *Vettius Agorius Prætextatus*, as "
an old Inscription in a Stone calls him, of whom, being *Præfēt* of the City, we "
have heard formerly from *Ammianus Marcellinus*, who gives him great commen- "
dations, and mentions his being made *Proconsul* of *Achaia* by *Julian*; in which "
Dignity he continued the first years of *Valentinian*, as *Zosimus* writes, who also "
gives him a great Character.

Plat Profi
graphiam.
Theod. &
reti Notas
Symm. Ep

Ambassadors
out of Persia
desire Peace.

10. *Theodosius* this year made his abode at *Constantinople* till the Month of *June*, about which time Ambassadors came to him out of *Persia*, and desired *Chron. Hi*
Peace. Either upon this occasion, and by way of congratulation, or some other, *Cod. Th.*
was the usual Gold paid into the Treasury, which they called *Aurum Coronarium*;
which lest it should fall upon those that were not concerned to pay it, by an
Edict directed to *Cynegius*, and dated on the eighteenth of *January*, he com- *L. 5. de*
mands "That none shall be compelled to pay it unless Custom could be al- *Coron. Coa*
leaged for it. But though he was careful and indulgent to those Persons that *& L. Un.*
they might retain what Immunity they had enjoyed; yet having set himself at *Just. cod.*
this

Sect. 4.

Theodosius
rebuilds Con-
stantinople.

this time to the beautifying of *Constantinople* by several new Works, he ordains in the same Constitution "That no Person whatsoever by his Dignity be privileged from contributing to the Haven, and Aqueduct which now were making or repairing. Therefore much less could the Judges privilege any Person; but this holds only in such Sordain, Extraordinary and Noble cases as this; for otherwise Senators were free from such Contributions, and so were also the *Veterans* or Emerite Souldiers. But at this time *Theodosius* began to make a Port at *Constantinople* (which at this day when *Turks* and others ordinarily speak of that place they call by this very Name) which was called *Portus Theodosianus*; as also an Aqueduct which had the Name of *Valentianus*; but to this afterward he added another, which bore, as did the Port or Haven, his own Name. Of this his enlarging *Constantinople*, *Themistius* the Philosopher makes ample mention in an Oration he made this year in Commendation of this Emperor. "For, having extolled him as the most happy and wealthy Prince that had been, for maintaining so great an Army as never had been on foot, since the *Romans* had their power; especially in the Country about *Tigris* (which gives us some hint of the Advantage he had at this time against the *Persians*, and his compelling them to a Peace) he instanceth also in the support of this vast City, and the great multitude contained in it: He adds, that he not only nourished them, but repayed what was detained by the Fraud and Iniquity of former times; for he increased the Provisions and the Gifts formerly bestowed; whereas before they thought themselves well dealt with if nothing was taken from them, of what they formerly had possessed: so that there was no need they should cause all Strangers to depart the City (as sometimes it hapned in *Rome* and other places) for want of Necessaries.

The Testimo-
ny of *Themisti-*
us the Philoso-
pher thereto.

11. On the contrary, still greater numbers flocked thither, and lived in abundance of all good things. The Emperors Magnificence in the Buildings he would have his Auditors consider, in that the City from a rude and imperfect thing was become so pleasant and beautiful as could not be expressed; no Corn being now sown within the *Pomerium*, neither any void spaces left, but all being fitted with delightful Objects, it represented as it were a Garment interwoven to the very Borders with Gold and Purple; for such a show did the Palace called by the Emperors Name, the Baths, the Porticus's, and the *Gymnasia* (or places for Exercise) make, and so largely extended it, that what seemed formerly the Edge and Hem, now appeared in the middle. Neither while the publick Works were carried on, were the private Buildings neglected; but the whole City grew and increased like to some Animal, through the contrivance of the Emperor and the assistance of the Magistrate, who so far excited the Inhabitants, that they built their own Houses very stately and capacious, of which they lined the Walls, and paved the Floors with *Laconick*, *Lybian* and *Egyptian* Marble; and convinced *Menelaus* of much folly, who is said to have covered his Walls with Brass and Silver. But in the Suburbs also the Stateliness and Magnificence of the City, saith he, is remarkably eminent; the Sea therein now brought within the Land, and an Haven lately made, afford a noble prospect of Ships. The Town abounds with Artificers and curious Workmen of all sorts, and looks like a very shop of Magnificence. And indeed if the Affection and Design of the Emperor proceed in this way, there will be the next year need of a Plot for another City. And it will henceforth remain doubtful whether of the two Cities be greater or more illustrious; that which *Theodosius* adds to *Constantinople*, or that which *Constantine* adjoyned to *Byzantium*. Thus much *Themistius* concerning the great zeal *Theodosius* had for the enlarging and beautifying of this City; a City of which as *Constantine* was the Parent, *Constantinus*, *Julian* and *Valens* were very tender in its Infancy; and now in its fuller Age was it as much indulged by *Theodosius*, his Son *Arcadius* and *Theodosius* his Grandson; so that as we said upon its Nativity, it was founded under a very lucky Planet.

12. But as *Theodosius* had opportunity to shew his Magnificence; so also his Clemency and Fatherly affection to the Provinces at this time. For in the East, and particularly in *Syria*, was there great want of Corn for three years together, under so many Comets of the East, viz. *Philagrus*, *Proculus* and *Icarus*. The People also complained, that, what Tribute was due in Specie they were forced to change for Money, at a greater Rate than the things would bear, to their great loss and Inconvenience. To redress this grievance and give all the ease he could to the Provincials, he published a Constitution, now divided into three several Laws, in one of which he commands "That the Tributes of Corn and Provisions

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L. 23. de Ope-
ribus publicis
Cod. Th. & L.
7. Cod. Just.
cod. tit.Orat. 6. p. 161.
&c.L. 4. Tributa
in ipsis specie-
bus inferri.
Cod. Th. Abst.
& Cod. Just.
be

Sect. 4. be paid in Specie. And whereas, in case of necessity, when Corn and Provisions were wanting, for the publick Service, or to supply the Poor in time of Famine, the Officers were wont to buy where they saw convenient, and often constrained the People, to part with what they could ill spare, or at unreasonable Rates; by another Branch of this Constitution he commands "That no man be forced to sell his Goods, but that the Sale be voluntary and free. That ready money be paid down for what was so bought, by the care and ordination of the *Præfectus Prætorio*, and that, at the ordinary Market-price; and in the last place, that the *Plebeian* or lower sort of People shall not be constrained to sell their Provisions, which should only be purchased from the wealthier Possessors of Lands. So would he provide against the common Calamity in behalf of the Poor, so as not to force one poor man to relieve another, but to lay this burden on the richer sort; though *Anastasius*, one of his Successors, thought this too gentle; and in such cases would have no man excused from this *Coemption* (as it's called) whose Law also *Justinian* preferred, and for this reason would not insert this, nor another made by *Constantine* upon this subject, into his *Code*. But such was the tender care of *Theodosius*, to prevent oppressions, to which he might be excited the more, by some clamours made at this time. For, little better is a Relation made by *Libanius*, the Sophist, in an Epistle to *Modestus* the *Comes* of the *East*; to whom he complains, that one *Dulcitius* who was owner but of a small parcel of ground about *Bereia*, betwixt *Antioch* and *Hierapolis*, was compelled to sell a great quantity of Wheat by the Officers appointed to look to these matters, who oppressed, and favoured whom they pleased: and against them he craves his Justice and Assistance. Further, because in the payment of Tributes a more peculiar respect was had to that of Gold, that the *Susceptors*, or Receivers of it, might not imbezel it; nor the miserable Provincials be oppressed by their frauds, he will have it be paid in the presence of the *Defensores* of the Cities, who, as we said, were ordained for the case of the People, to protect them from injuries, and were to be present for this end, at the publick transactions. And for the ascertaining of the payments, he confirms what he had formerly ordained in another Law concerning the form of Acquittances given by these *Susceptors*. This Constitution was published at *Berytus*, a City flourishing exceedingly in this Age in the profession of the liberal Arts, and especially the Civil Laws. Here also the *Comes* of the *East* and the *Consularis* of *Phœnicia* (at least sometimes) had their residence. Moreover multitudes of Merchants flocked hither, for the Trade of Purple Cloaths here died, and for other sorts of Traffick; besides, it was frequented by *Gladiators*, and the *Cursus Publicus* was directed to it. Being in this Degree of Eminency, it eclipsed the ancient glory of *Tyre*, the Metropolis of *Phœnice*, and here usually were the Edicts, relating to it, proposed to view; yet with respect to that ancient City which had been advanced to the Honour of Metropolis by *Adrian* (who divided the Province of *Phœnicia* from *Syria*) it being a Colony that had *Jus Italicum*, at the intercession of one *Paul*, an Orator and Inhabitant of it. For it was the custom, that if in any Province, there were a City of greater Resort than the Metropolis it self, the Laws were there published, yet so as to preserve the esteem of the Mother City, they were first directed thither. But at last there was no need of this labour, when *Berytus* it self became a Metropolis by the Indulgence of *Theodosius* the Younger.

The Eminency of *Berytus* in these days.

He restrains the Abuse of the *Cursus Publicus*.

13. We have formerly observed, though not with those Reflections which the Malice of *Zosimus* suggested, that *Theodosius* was very Indulgent to the *Magistri Militum*. Thereupon, as it seems, rather than from any privilege they had by Law, they presumed to grant Licence for Use of the *Cursus Publicus*, or made Use of it themselves without any lawfull Authority. This Boldness of theirs by a Law he checks, and forbids the practice, declaring "That none ought to have the liberty of the *Cursus*, but those to whom it was granted in former times; and therefore they who formerly wanted it, will, for the time to come, more patiently endure the loss of it; and he courts them to it, by telling them, that he takes them to be lovers of the Commonwealth, and in matters respecting the Common Utility, that he expects they will behave themselves according to the Laws and Customs of the Empire. Thus just was *Theodosius* to the Laws and Customs, and yet indulgent enough to his *Magistri Militum*, whom he courts as well as commands, and, whereas he expects they should live according, as he expresseth it, to our Custom, thereby he supposeth them Strangers, and such indeed were the *Magistri Militum* at this time, their very names pronouncing them Barbarous; as *Richomerus*,

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L. 2. de publi-
ca comparati-
ne. Cod. Th. li.
11. tit. 15.
vide Com.

L. 19. de Ac-
tione & Tribu-
tis. Cod. Th.
Abst. à Cod.
Just.

De Beryto usq[ue]
Com. Gotthof.
ad h. L. &
Ejusd. Notas in
11. L. de Tribu-
nibus. Cod. Th.
lib. 7. tit. 13

L. 43. de Curi-
publico. Cod. Th.
Abst. à Cod.
Just.

Richomerus,

Sect. 4.

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grants great
liberty of Ap-
peal.

Chomeres, Arbogastes, Stilicho, Bauto, Heliobius and others. But that we may joyn together what hapned this year about the same Subject; provoked, we must guess, by the great miscarriages of this *Cursus*, which was intended for the publick service; by another Edict he declares "that no private persons shall have the liberty of making Use of it, however the Licence be obtained, except they be such "as have exercised the Office of *Prefectus Pratorio*, or been *Magistri Militum*; "not by Codicils having arrived to such Degrees, but having really discharged the "Employments in their own Persons. But neither should these make bold with "the privilege always as they desired; but having once had the benefit of it, and "thereby reached their Homes, or Places which they designed to come to, they "should thenceforth serve themselves of it no more; except they obtained a Licence "from the Emperor himself for so doing. Being ever and anon casting his Eye "upon the Carriage of the Magistrates; to prevent the oppressions of the People, "he ordained, that a Judge might admit even of a superfluous Appeal, and such "as had no warrant from Law, if he saw occasion to transmit the matter to some "other Court; and whereas of old time Caution was wont to be given to pay so "much money in way of Mulct, or deposite it in Court, in case the Appeal were re- "jected; but Princes had taken this away and provided what Penalties in parti- "cular should be imposed upon idle and frivolous Appellants, he now forbids any "other Mulcts to be imposed in such cases, but what had been decreed by him or his "Predecessors.

L. 42. de Ap-
pellat. Cod. Th.
Dat. 384. ad
hered. 280. ad
Ag. 11. 1. 1. 1. 1.
con. 1. 1. 1. 1. 1.
L. 43. F. 1. 1.
tit. Dat. 1. 1.
Cal. Nov. 1. 1.
robandi
A. 1. 1. 1. 1. 1.
a. 1. 1. 1. 1. 1.

restrains the
stragling of
souldiers.

13. The Law whereby this is enjoyned is directed to *Merobandes*, a *Frank*, and *Dux* of *Egypt*, who being as well a Stranger as a Souldier, might be less instructed, and more apt to be Excentric in his Judicature than other Military Judges that were originally Subjects of the Empire. "But one disorder he found in Souldiers at this time, which he would not have punished by any of these "their Great Officers, but reported and referred to his own Person, and that "was their stragling from the Mansions where they were Quattered, and from "their Colours, whether Tribunes or inferiour Souldiers. He expressly commands "that no leave be given them, for their wandering through the Countreys, to pre- "vent that Rapine and Violence they were wont to commit upon the Provinci- "als; and if any should transgress this so necessary Order, he requires that thereof "Report be made to himself, both of the Souldier and his Tribune, by the Gover- "nour of the Province, or the *Defensores* of the Cities, who being appointed for "defence and ease of the People, he requires many things of them in order there- "unto about this very time. And for the Cities and places Corporate, he shew- "ed himself further careful, and particularly for those of *Hedeſſa* in the Province "of *Oſdroena*, where there was such scarcity of *Curiales*, that by an Edict directed "to *Cynegius*, *Prefectus Pratorio* of the East, he confirmed a Law formerly made "by *Valens*, whereby, if a *Principal* or *Primipilaris* belonging to the *Præsident* "of that Province, had a Son, he should be addicted to the Court of that City; "or if he had two, the one should go to the Court, and the other remain in his Fa- "thers Relation to the *Præsidents* Office. Nay such he will have drawne back to the Service of the Corporation as were born before their Fathers came to be *Primipilares*; for they were indeed accounted such though born before; in like manner as the Sons of Senators were received to the Honour of such, though born before the Dignity of their Fathers. Further, being removed from *Constantinople* to *Heraclea* in *Thrace*, at the beginning of *June*, (Whence he again returned in *September*) by another Law inscribed in *July* to the same *Cynegius*, he declared "that even such Persons as had served in the Government of Provinces, if belonging to these Courts, should be forced back to such Services thereof as "they had not discharged, agreeable with what he had before determined in two "other Constitutions, it being his general resolution, that Persons, though Digni- "fied, should be recalled to these Employments. Though this, to some of his Successors sometimes seemed fit, yet several of his Predecessors were of other Opinions. But hence we see that they varied therein as occasion served, and the times would bear, and that the want of these *Curiales* grew greater every day, when such as had been Governours of Provinces must again be forced back to such charges; or in Conclusion, that the Governments of Provinces grew to be of less Esteem, which formerly were wont to afford protection to those that had discharged them.

L. 12. de Fi-
M. 1. 1. 1. 1. 1.
L. 1. 1. 1. 1. 1.
Cod. 1. 1. 1. 1. 1.
tit. 1. 1. 1. 1. 1.

L. 105. de Me-
curion Cod. Th.
Abst. à Cod.
Jus. Ut Histo-
rica & tempo-
ranea. Dat.
pud. Non.
Maij.

L. 106. E. Jusd.
tit. Dat. 8. Id.
Jusd. Heraclea
Abst. à Cod.
Jusd.

indulgeth
corporations.

14. However, Luxury and vast Expence for Ostentation, was as great at this time as ever, which drove some Persons in Place to that Excess, that they would give such Gifts and bestow such Largesses upon their Friends, or the Players, as

4. the Purfes of Princes were only full enough to bear. This compelled *Theodosius* to publish a Constitution for regulating this Abuse; both that some Difference might be put between the Largesses of Private Persons and the Emperors themselves upon such occasions; and that amongst private men there might be some Distinction of Dignity; and they might also be restrained from this immoderate effusion of their wealth, which often extended as far as the wasting of their Patrimonies, and the spending of their Estates, that they might exceed one another in this sort of Vain-glory. The Senate it self being principally concerned, had taken notice of this mischief, as tending to the Destruction of its own Order; and thereupon had framed a *Senatusconsultum*, as well against the immoderate expence in setting out the usual Games and Pastimes, as other matters, by the recommendation of *Theodosius* himself, as *Symmachus* tells him, who thereupon prayed in the Name of the Fathers a confirmation of that which they had resolved. In answer to his Epistle and to several particulars of it, this Emperor sent his Oration or Edict directed to the Senate, wherein he premiseth "That although a *Senatusconsultum* doth obtain perpetual strength and establishment of it self, yet they (the Emperors) thereto are wont to give a corroboration; that is, to such Decrees of the Senate as respected it self, its own Orders and Regulation; for as for other *Senatusconsultums* made for declaring or enacting some points of Law (as *Tertullianum*, *Velleianum* and the like) there were no such now made, nor had been for many Ages; the Prince having swallowed up all such Legislative Authority. But therefore he ordains, that, "If any particular Persons should by way of petition endeavour to procure a Rescript for excusing himself from what was generally concluded and established, he should forfeit the third part of his Estate, and be rendered Infamous, as a person convict of Ambitious Purposes. Now for the Retrenchment of the Charges of such as presented the Games; amongst other Expences upon Stageplayers and other Persons they were wont to be profuse towards them in Cloaths, which sometimes were filken, either all; or in part, woven with other materials. "But whereas the Emperors themselves were wont in their own Largesses to bestow such as were all of Silk, he forbids the Setters forth of the Plays to do it.

Particularly
in the wearing
of Silks.

15. Of all the Emperors and Romans, *Heliogabalus* was the first that wore any Garment that was all of Silk; when as before that time Cloaths that were mingled of that and Linnen were only in use. But he both wore them, and gave to his drunken Companions those of the later sort; which course his worthy Successor, *Alexander Severus* altogether rejecting with his other Extravagancies, neither wore any of Silk himself, nor gave any that had Silk in them to any Person: nay *Aurelian* never wore any of the former sort, neither made any Present of the later; and when his Wife desired she might have but one Mantle of purple Silk, he told her it was a shame that Yarn and Gold should be of the same value; for then a pound of each was sold at the same rate. Yet for all this, Private Persons were sometimes so arrogant as to wear whole silk; for else *Tacitus* the Emperor had not forbidden the practice, and notwithstanding his Command to the contrary, they would still be bold; yet so as they did not give such Cloaths to Players, but those only in which Silk was mingled, in the time of *Constantine*, which also was much complained of. However, after his time they took up the practice, and so much Silk came to be prized, that none could think themselves Fine or Gay enough without it, though it was not the growth or product of the Roman Empire; but was brought out of *Persia* or those Eastern Countries; for (to give some stop also to this Extravagancy,) *Gratian* not long before the Law we are speaking of, by his Edict directed to *Toribaudus*, the *Dux* of *Mesopotamia*, forbade that any Person should procure any Silk from the Barbarians, but only the Comes of Traffick or Commerce. "But now *Theodosius* expressly forbids the caressing of Players with such Cloaths, and by the same Constitution thinks fit to give a check to the Custom for Magistrates their making excessive Presents to their Friends at the entering of their Offices. For at such times, their Acquaintance and Persons of Quality, were wont to flock to them to grace them with their presence, or to see the Shows, and then they must be presented with something whereby to remember them, nay such as were in great Esteem with them, though absent, were wont to receive this mark of their kindness. These were either Pieces of money (or Medals;) or else Diptycha or Tables to write on, consisting of two Leaves apiece. The Largess made by money was called *Sportula* (from the Baskets in which they were carried) both given upon these Promotions, at Weddings

A. D.
384

L. Un. d
natuconfu
Cod. Just.
1. tit. 14

L. 1. de
fu ludoru.
Cod. Th.
15. tit. 1
Abst. d. c
Just.

L. 2. Qua
venire no
sunt, et
Just. lib.
40.

§. 4. dings also, and upon other occasions : and as well at Entrings into Offices, as at the Marriages of Noble Persons, they were now wont to be made of Gold. " But *Theodosius* prohibits any Setters forth of Games to make them in Gold, except " the ordinary *Consuls*, who did it in one piece called an *Aureus*, as *Symmachus* " tells his Friend, to whom he sent one in his Consulship. All others were to make " them in Silver, and not put so much as they pleased into every piece, but to " form them so, as out of one pound of Silver might be made sixty in number, and " no heavier ; but as many more as they pleased. And as for the *Diptycha*, he will " have them, which the *Consuls* presented only, made of Ivory, whereas they were " wont to be made of other Materials. Thus careful was he for restraining of Luxu- ry ; but his Law, however strengthened both by a Penalty and Infamy, was broken not long after.

A.D. 384.

L. 9. Ep. nit.

16. As careful he was for filling up and keeping in credit the Senate of *Constantinople* ; to which end, whereas Immunity from the *Glebalis Collatio*, or ordinary Tax upon Senators, was wont to be granted to some certain Persons, and had for this purpose been extended to such Roman Senators as lived in *Thrace* ; he now communicate it to such as lived in the Diocess of *Macedonia*, and would be made Members of that Body. About this time, or the ninth Day of September, he had a Son born to him by *Flaccilla* his Wife, to whom he gave the Name of *Honorius*, And he still continued his Indulgence to Corporations, by ordaining " That if the Estate of any *Curialis* came freely by way of Legacy, Trust, or free Gift to any " Person that was not of that Condition, such Person should be yearly bound to pay " a certain sum of Money (as the twelfth part of a *Solidus*) according to the pro- " portion of the Patrimony which he received. And whereas the Governors of " Provinces were now adays wont to punish their Officials for their misdemeanors, " by condemning them to the Services of the *Curia*, he forbids this as a thing in- " decent, and below the Eminency of these Bodies. Indeed if any *Decurio* had for- faken his Station, and sheltered himself amongst the Officials, they might send him back to his former Charge ; but he requires *Cynegius* the *Præfectus Prætorio* to admonish all Judges subject to his censure, that they should not look upon the Ser- vices of Corporations as Punishments, by forcing any to them ; and he gives this reason ; For that Punishment, really such, and not any Dignity ought to follow an Offendor. And indeed it's held for a Rule, that Punishment ought not to make the condition of the punished party to be equal to what it was before, much less ought it to render it better than it was formerly. So careful was he to save that vast Expence, which, in these days, wherein Christianity could not yet put an end to the former Pagan Extravagancies, was made by *Prætors* in their Games and shows, which they were bound to set forth to the People, that instead of four this year, he caused eight to be created, and appointed the Charge they were to be at, by another Edict directed to the Senate. One of the *Prætors* was once from *Constantinus Chlorus* called *Flavialis*, and was the first in order ; but afterward was put out of Place, and he that from his Son was named *Constantinianus* was the first in Rank, and *Flavialis* at length was quite abolished. But to him, who from *Constantine* the Great had the Name of *Constantinianus*, another was added, who from his Son was styled *Constantianus*. There was moreover one called *Triumphalis*, from the old Triumphs during the Commonwealth, and a fifth known by the name of *Romanus*, from the City of Rome, which *Constantinople* owned for her Mother. All these five were in the days of *Constantinus*. In the Reign of *Valens* were but four ; and so many continued till this very year, but not with the same Names. *Constantinianus* and *Constantianus* continued only in being, and in the room of the rest the Senate had introduced lately two others, from the Names of the present Princes termed *Theodosianus* and *Arcadianus*. But now of the old ones *Theodosius* restored two, viz. *Triumphalis* and *Romanus*, and two he added a-new, viz. *Augustalis* and *Laureatus*, and so made them eight, or four pair in all, though under the Government of his Son *Arcadius* they seem reduced to that of seven. Having thus made them Pairs, he will have each Pair to pay so much towards the expence of the Games, as one Person was formerly wont to do. Namely, " That of *Constantine* and *Constantianus* a thousand pounds of Silver. That of *Theodosius* and *Arcadius*, a thousand (or rather less, for some fault seems to be in the Text, his words plainly shewing that he meant a Declension in the sums :) " then that of *Triumphalis* and *Augustalis* four hundred and fifty : and that of *Romanus* and *Laureatus* two hundred and fifty pounds.

L. 3. de Senatoribus & de glebalis &c. Cod. Th. l. 6. tit. 2.

L. L. 107, 108. de Decurion. Cod. Th.

L. 25. de Prætoribus, &c. Cod. Th. Dat. 10. Kal. Nov.

Sect. 4.

The Consul-
ship of Arca-
dian and Bau-
to.Theodosius.
Declares the
Duty of a De-
fensor of a Ci-
ty.Theodosius.
Declares the
Duty of a De-
fensor of a Ci-
ty.And the pri-
vileges of the
Curiales.

17. The CCCLXXXV year of our Lord had for Consuls *Fl. Arcadius Aug-* A.D. 385.
stus and *Fl. Bauto*, being the tenth of *Valentinian* the second, and the thirteenth
 Indiction. *Theodosius* this Year made his Abode at *Constantinople*, and *Valentini-* Arcadio
an continued at *Milan* till nigh the Month of *September*, when he removed to *A. et. Bau-*
Aquileia, and there staid till the beginning of the next, but that he was at *Ve-* tome Cofi.
rona some little space. For there he resided upon the account of the *Juthungi* as it's
 thought, who at this time made IncurSIONS into *Rhetia*, and against whom the
Hunns were called in for Assistance. Under him this year *Neotherius* and *Prin-*
cipius were *Præfetti Prætorio* in the *West*, and under *Theodosius*, in the *East*, was
Cynegius; for this and the following. *Paulinus* was *Præfectus Augustalis*, having
 succeeded to the place of *Optatus*, and *Messianus* was *Proconjul* of *Affrick*. The first
 Law we meet with in this, as agreeable to other years, is one of *Theodosius* whereby
 he prescribes the Duty and Work of a *Defensor* of a City to one *Theodorus*, who
 bore that Office at this time, and therefore seems to have consulted him about his
 Employment. He tells him, the time he shall Exercise his Office shall be five
 years (afterward contracted to two) wherein he expects he shall carry himself
 as a Parent of the Common People. For he must not suffer either those in Towns
 or Country to be oppressed by any Surveys; but protect them both from the In-
 solence of Officials, and the daring boldness of Judges themselves; yet so far as
 is Consistent with modest Respect to their Persons. He gives him leave to
 have recourse to the Judg of the Province, when he pleaseth. He chargeth
 him to prevent the Damage or Spoile of such as he now holds as Children, un-
 der his Charge, from all such Officers as shall demand more than publick
 Dues, and by no means permit more to be exacted than the wonted Tax;
 forasmuch as there is no other way of Remedy for such mischiefs but what
 his Place and Function affords. So careful was *Theodosius* to mind this officer
 of his Duty, who received little gain or no emolument from the discharging of
 it; but more severe he was against another sort, to whom the Care of pub-
 lick works was committed, or in whose hands mony for that purpose was depo-
 sited. For there were those they called *Curators* of publick works, or certain
 Masters of Architecture (*Mechanicks* they termed them) who undertook the build-
 ing or Reparation of publick Structures, received from the several Cities, Mo-
 ny for carrying them on, and managed the Accounts of the Expences. Under
 them were those that took the Work by great, called *Ergolabi*, who were an-
 swerable to the *Curators*, as they to the Publick. Now because of the great
 Frauds and Neglects committed in this kind, *Theodosius* ordained, that all such *Cur-*
tors, or those to whom the Charge of Building, or Mony was committed, should
 for fifteen years from the finishing of the work if living, or their Heirs after them,
 be responsible for any fault committed in the Building. If any such Defect appeared,
 they must answer it out of their own Patrimonies, except it happened by some Ac-
 cident, and was the effect of meer Chance, not any Neglect on their part.

18. We have sufficiently seen how severe *Theodosius* was to all the *Curiales*, that
 they should discharge their Duties to the Corporations to whom they belonged;
 now at last we meet with the Reward he appoints them for their so long and
 troublesome Services. By an Edict inscribed to *Cynegius*, he obviates the
 Design of some who indcavoured to compel such of them as had passed
 through all Employments of the *Curie* and discharged all other Duties,
 to undergo the Charge of the *Agonothesia*, as they called it; (which was a kind
 of Priesthood amongst the Pagans, or a Task of presiding at, or governing their Ex-
 ercises) and put them besides the Honours they might justly challenge as *Emerite* or
Veterane. In opposition hereto he positively declares, "That such as had discharged"
 in this manner all other Offices due to their Country, shall not be put upon the
Agonothesia against their minds: In the next place, that they shall receive the re-
 spect that was due to such Persons, and enjoy the Honour and Dignity of *Comites*,
 which in this Age was conferred on them, as, in others, other Honourable Quali-
 fications. And this Dignity he will have to stick by them, although they never stood
 for it, never desired it, nay, though they refused it, and by all means sought to de-
 cline it: for this Splendour he would have accompany the Quality of the Person,
 and that during Life; whereas sometimes this Honour lasted only for some shorter
 Term. Thus where a Respect was had to the publick Concern, that other
 Men might by a Prospect of Reward be encouraged to serve their Countries,
 were Persons ever constrained to accept of Honour; as here, not only of the De-
 gree of *Comites*, but also of receiving a Kiss from the Governours of Provinces,
 and

L. 4. de Di-
fensorib. Civ.
tatum. Cod.
Just. lib. 1.
tit. 55.L. 24. de Op-
ribus publici
Cod. Th. &
8. Cod. Just.
ed. tit. D.
3. Non. Febr.L. 109. de i.
curion. Cod.
Abess. 2. Ca.
Just. Dat. 1.
Kal. Maij.

Sect. 4.

and sitting with them upon the Bench; for this *Theodosius* ordains in their Favour, as well as the other. But whereas the Governours of Provinces had great Inspection over these Corporations, and right or wrong, were wont to beat the *Curiales*, or Senators thereof with Plummets; forasmuch as Injury was thereby thought to be offered to the whole Body, the Court it self upon the solicitation of the Party was wont to be concerned, and accuse the Judg, as they thought with greater Load, because with larger Interest and Reputation. But for that this Accusation was made without any Solemnity, and the Parties thus accused, by Decrees of the Courts, often were thereby born down and injured, being taken for no better than Convicted Persons; *Theodosius* thought fit that this Accusation should be made in the Name of the *Decurio* himself who pretended to be injured; but notwithstanding, the *Præfectus Prætorio*, to whom the Complaint was made, should punish the Offender, as having been Injurious to the whole Court. This Law he directs to *Cynegius* his *Præfect*, to whom he gives the Titles of *Illustrious* and *Magnificent Highness*; and telling him that forasmuch as no Accusation ought to be made by a second Person, he will have him, with that Justice and Equity by which he was known or taken notice of, to punish a Judg who should beat in that manner any Innocent *Decuriones*; or his Officers if they were Silent upon such an occasion. The *Præfetti Prætorio* we have sufficiently seen had Jurisdiction over the Judges or Governours of Provinces. And great is this Testimony the Emperour gives to this *Præfect*, while yet in Office, that he was Renowned for Justice and Equity. But he Charges him only to punish a Judg, as should so beat an Innocent *Decurio*; whereas by some former Laws he forbids any of that Condition to be beaten with Plummets, how Guilty soever. He changed the Course and Rigour of his Laws, as he found the Condition and Circumstance of the Persons to Change.

A.D.

385.

L. 15. de Accusation. & Inscription. Cod. Tb. & L. 14.

He bridles the boldness of Calumniators.

19. Further, about this time the Number and boldness of Informers and false Accusers did so increase, that to satisfy their Malice, or bring about their ends, and yet avoid the punishment due to Calumniators, they were wont more than formerly to use the Names of other Men therein, and pretend to do it upon the Account of others. Yet there was one Case which in this matter of Accusation deserved that a Distinction should be made, and that was of Guardians or Tutors, who in managing the Estates and Concerns of their Pupils, were often by Exigency of their Affairs put upon it, to accuse their Adversaries of Falshood, Forgery or other matters. Now it being not their own Business, it seemed hard they should make the usual Inscription required by the Laws, or submit to the punishment due to the offence, if not proved; and yet it often so happened, that several such Guardians might make use of the Advantage their Trust afforded, to loaden with Calumnies those to whom they bore Malice. Therefore a middle way was found, that those who exercised such Charges, should make the usual Inscription, but not with that Danger which hung over them that accused in their own concerns; for if it proved not an evident Calumny, and plain, that wittingly and willingly with a malicious Intention they made the Accusation, no Penalty was to fall upon them. But there was another sort of Men, who would not seem to do it in the Name of another; but only to assist the Accuser in way of Duty, Officiousness, or Friendship. In this manner *Apuleius* complains to *Maximus Claudius* the Judg, or Proconsul, that one *Flavianus* Craftily went about to accuse him of Magick, by way of assisting *Sicinus Pudens* a Boy, of adult Age; which the said Judg refused to admit, and would have him do it in his own Name, as the Law required in the Case of Tutors and Curators when their Pupils or Minors were admitted to accuse. There were others who to satisfy their Malice would not Commence the Accusation in another mans Name, but yet make use of his Name who they pretended was injured; as by saying that the party killed was their Father, thereby to evade the punishment due to a Calumniator, which he escapes, whoever revenges his Fathers Death. But they were not so properly said to do it in anothers Name, as those who being suborned for the same purpose, either at the beginning of the Accusation openly named him from whom they had Instructions to do it, or else did it without mention of him, though at his furtherance and desire; but both of them were punishable by the Ancient Law, as well the Accuser, as he from whom he had it in Charge. What the Law formerly had determined against Accusations made in the Names of others, *Theodosius* now confirms, seeming to aim at those who had some Authority and power, and therefore were made use of, by such as imagined they had not sufficient Interest to carry them through, to Impeach those

L. 2. de Calumniatorib. Cod. Tb. & L. 8. Cod. tit. Cod. Just. D. 1. 8. Id. Maij Constantinop.

Sect. 4. to whom they bore Malice, as having committed something against the Prince himself. Though the Emperour or his Treasury might hence reap Advantage, yet such an Accuser failing of Proof, he declares shall be punished with Deportation as a Calumniator and Infamous Person; that all manner of Persons may take Notice, that they must not raise the Choler or Indignation of Princes in any thing they cannot prove.

A.D.

385.

20. But, whereas to prevent the vexation of Accused Persons, that their Innocency might be either cleared, or their guilt the sooner discovered and punished, the antient Laws ordained, That the Prosecution should be terminated within the space of one year, to be reckoned of old from the time of the Inscription, if the case required it, or, more lately, from the contesting of the Suit, and that under penalty of incurring Infamy by the Prosecutor; this *Theodosius*, by an Edict directed to *Desiderius* the Vicar of *Asia*, confirms, and further adds Confiscation of a fourth part of his whole Estate. And indeed, great Cause there was that some dispatch should be made in such Criminal matters; such Persons as were in Bonds, and answering for themselves lying under great disadvantages, as being put out of Capacity of committing, making any Deeds of Gift, or giving Testimony, impeaching others, or obtaining any Honours. But as *Theodosius* shewed himself a great Enemy to rash and Malicious Accusations, so where he thought the Case required it, he gave way for effectual Prosecution. The Custome amongst the Romans, was, that Slaves could not ordinarily be examined by torture against their Owners; But by a Law inscribed to *Cynegius*, this year, he declared that it might be in two Cases. Of old time it was permitted in Case of Incest, and in that only, till the making of the *Julian* Law, by which it was also allowed in that of Adultery. "Now *Theodosius* declares, that if a Man accuse his Wife of Adultery; not only his, but her Slaves also, shall be by Torture examined; none excepted but those that were absent at the time when the Crime was Committed, who yet were not excepted by more antient Laws. And he further allows this severity in examination of Slaves, both against Master and Mistress, in Case each attempt the Life of the other, having the same respect to this sort of Fault in them both, because equal on both sides, whereas that of Adultery is greater if Committed by the Wife. This was directed to *Cynegius* at the latter end of the year, who after it received one more in behalf of the Countrymen that were oppressed in the Carriage of Provisions for the Army to the several Mansions. He will have the conveyance to be made by those that lie most conveniently for it, and not by them that lie at a distance, except it be the Provision for the Soldiers, upon the Limits, to whom a more than ordinary respect was shewn, for the great concernment of his Service against the Barbarians. For at this time as we have already seen, and shall more, they pressed much upon the Empire, and, if Credit were to be given to *Zosimus*, they were invited in by the Provincials themselves now harassed with Taxes. However, this Exception displeased *Justinian*, who taking the Law into his Code, yet left it out. And indeed both *Valens*, and *Valentinian* the Elder, his Brother, were of Opinion, and declared, that even the Provisions for the Limits should only be conveyed by those Possessors that were nearest at Hand.

21. But let us make some inquiry after *Valentinian* the younger, and see what he Enacted of Consequence, while *Theodosius* thus concerned himself. We find him endeavouring some Reformation in the Course of Judicature, there being at this time in his District, some Faults committed by the Judges themselves; but especially those that had occasion to sue in their several Courts. For too common it was for them to neglect and pass by the ordinary Judges of the Provinces, and betake themselves to the higher Tribunals of those called *Spectabiles*, or of the *Illustrious* Prefects; possibly by reason of the negligence or corruption of some Judges; but especially out of contempt and disdain conceived by those of Birth and quality, when they saw Persons of mean Descent and Merit preferred to such places, as was that *Terentius* the Baker, mentioned by *Ambrosius Macrobius*, who was made *Corrector* of *Tuscia*. However this Contempt of the Ordinary Jurisdiction carried with it two manifest injuries and inconveniences. For thereby was the Judge of the place slighted and brought into Contempt; to the violation of all good Government; and the Defendant, or Party sued, was drawn away from his own Province to Courts afar off, to his great Charge, detrimēt and vexation; which being a thing unsufferable, upon this Account it was that rarely were any called up before the Emperour, however he took Cognizance of Causes. By an Edict directed therefore to *Neposianus* Prefect of *Prætorian*

L. 1. Ut intra Annum Criminalis Actio. Cod. Th. lib. 9. tit. 36.
L. 1. Cod. Th. lib. 9. tit. 36. hinc interpretata. Dat. .ad. Jul.

L. 4. ad Legem Julianam de Adulteris. Cod. Theod. & L. 32. Cod. Just. eod. tit. Dat. 3. Id. Decemb.

L. 21. de Annona & Tributis Cod. Th. & L. 8. Cod. Just. eod. tit.

Yet he takes Care for effectual prosecution of real Offenders.

Valentinian endeavours to secure the jurisdictions of ordinary Judges.

der

ed.4 der whose Authority the Governors of Provinces were, *Valentinian* expressly for-
bids that any Persons whatsoever, except Women or Minors (who by reason of
their Infirmary, were indulged often by the Lawes) pass by or despise their
own proper Judge, or the Judge of the First Instance; and betake themselves to
an higher, or one of the second Instance, directly and as it were, *per saltum*.
Any offending in this kind, he ordains as a punishment, shall lose or forfeit his
Cause, which in many other Cases, is imposed by the Laws upon such as disturb
the Course of Justice. But to prevent any Complaints which might be justly
made against ordinary Judges, their Corruption or Pride, he propounds two
expedients. First, he allleges that any unjust Sentence given by them, may be
reverted by a due and orderly Appeal. In the next place, if the Party could show
that the ordinary Judge, either out of Pride or partiality, either refused or delayed
to hear him, he should forfeit to the Exchequer the value of the thing in Contro-
versie, and upon the chief of his Officials or Apparitors, and their Adjutants, who
amongst other Employments, introduced or admitted Causes into the *Secretarium*,
he imposes no less a Pain than that of Deportation. Of the ordinary Judges, he
was so far further careful at this time, that their Authority should not be neglect-
ed, that he tells the same *Neoterius* in another Edict, that he will have the *Muni-*
cipes of every Corporation, when they Challenge any of their Members that ab-
scond, to betake themselves to no other Court for satisfaction therein, than that
of their own Province, giving it for a Rule, *That none ought to imagine any ju-*
dicature so Competent as that of his own Country. On the other Hand, he will
have every *Curialis*, who has governed a Province, to know, that he shall never
reach the *Senatorian* Dignity, except he discharges all Dues to his Corporation, in
Case he owe any; thereby forcing back Governours of Provinces to the Courts,
which though it seemed good also to *Theodosius*, yet other Princes were of the
contrary Opinion: however by this it appears, that the *Senatorian* Dignity once
attained at this time, put one out of Danger. If the *Municipes* themselves by
any trick hindred the Execution of this Law, or did not force back their Members,
he Fines the Body in thirty pounds of Gold. For, *Persons of a publick Capacity,*
may not be free to despise their Profit, or Advantage.

needs to
formation
courts of
ice.

22. Yet still did *Valentinian* so concern himself about the Reformation of
Courts of Justice, that knowing the ordinary perfidious and mercenary deal-
ings of the Apparitors belonging to them, and how by reason of their Absence
often in Collecting the Revenue and other Employments, they might presume
upon the benefit of the Law, which regularly Condemns and punishes none ab-
sent or unheard, he declared that they should enjoy no benefit of it; but might
be punished as Right required, though in their Absence. In Case such Appari-
tors, or Officials of Judges, fled and concealed themselves, he commands that
they be, by an Edict openly proposed, cited to appear. If they refuse, then
shall the Judge give Sentence against them; and he cuts off from them all hope
of Pardon, that despairing thereof they may not expect to escape either by
Flight, or by any Remission of the Crime. Not long after, by another Law in-
scribed to *Romulus*, the *Consularis* of *Æmilia* and *Liguria* he indeavoured to cut
off the tediousness of Suits, ordaining That after Denuntiation made, or the Ci-
tation served, the usual Intervals of time should not at all be continued or length-
ene, no not by the Authority of a Rescript obtained from the Emperour himself;
for whereas formerly, at the beginning of Suits, the Plaintiff was wont to give se-
curity; *Marcus Antoninus* the Philosopher removed that Solemnity, and introdu-
ced this Custom of *Denouncing* this sort of War, or giving warning to the Par-
ty to Answer by a day, which Custome yet was omitted and left off in the time of
Justinian. For prevention of those continual Troubles, which arose about the *Cu-*
riales forsaking their Charges, he ordained about this time, by another Law, that
whosoever should desire to take the Oath of the (Military) Girdle as he terms it, or
List himself a Soldier, should first in the City, where he was Born or last Inhabi-
ted, publicly and solemnly shew that he neither descended from Father or Grand-
father obliged to Municipal Services, nor any way himself, was concerned in
them; if he produced such Testimonials from the Register that he had suffici-
ently made this out, then was he to be admitted, or else to be drawn back, and
for ever subjected to the Services of the Courts. And he threatens the *Curiales*
themselves, if they should be found, out of favour or affection to dismiss any of
their Body, by giving any false Testimony in his behalf. Still further for prevent-
ing Delays in Suits, and to bring Causes to a speedy Issue, even where he himself

was

A.D.

385:

L. 6. De Juris-
dict. & ubi
quis convenit
debet Cod. Th.
Dat. Mediol.
Pridie Kal.
Maij. Absq. d
Cod. Just.

L. 110. De
Decurionib.
Cod. Th. Dat. 4.
Kal. Jun. Absq.
d Cod. Just.

L. 14. De Pa-
nus Cod. Th.
lib. 9. tit. 40.
& L. 21. Cod.
Just. eod. tit.
Dat. Kal. Jun.

L. 15. De Co-
hortalib. Cod.
Th. & L. 6.
Cod. Just. eod.
tit. Dat. Pridie
Id. Jun.

L. 4. De De-
nuntiatione
Cod. Th. Dat.
12. Kal. Jul.
Mediol.

L. ult. Quid:
probare debet
ant. Cod. Th.
lib. 7. tit. 2.
Dat. 6. Id.
Jul.

was concerned, he ordained by a Law sent to *Messianus* the *Proconsul* of *Africa*, that in all *Fiscal* causes or relating to the Treasury, if the Party lived in the same Province, the matter should be dispatched in two Months time; if in a neighbouring Province, for producing of Witnesses or Papers, four Months and no more should be allowed; and six, if his Habitation was beyond the Sea. And this should hold if the matter was brought in the first Instance; if in the second, or upon Appeal, the Debate should be terminated in the first Case within twenty days, and in the second, within as many more. These Rules he would have observed; if he that had Cognizance of the Cause was as an Ordinary Judge; but in Case the *Comes Largitionum*, or the other *Rei Private*, heard the Causes themselves; for that they did it sometimes extraordinarily; and as the weight or importance of them required; he left them to the Liberty allowed them by Antient Customes; and yet by another Rescript in Transmarine Judgments, he confines an Appeal within a year.

To remove
grievances arising
from the
Collection of
the Revenue.

23. He found out about the same time another grievance lying upon the People, from the Collection of the Revenue. The ordinary Judges or Governours of Provinces, who were trusted with the Collecting of Tributes, did now employ the *Palatine* Officers belonging to the two Treasurers therein, either for that they found them more honest than their own *Officials*, or rather, because they carried more Authority along with them. But this Awe and Authority they improved to the vexation and oppression of the Subject; and therefore he commands *Principius* his *Præfekt*, that if any Judge employ a *Palatine*, either in the Collection of Dues, or Commit the Execution of any Sentence to him in any private Cause, as well He, as his Office, shall for every such Offence, incur the Penalty of five pounds of Gold. But now the Offices of the Ordinary Judges seem to have been exhausted, possibly, because of the many severe Laws made against their Avarice and Rapacity, whereby they were hindered from enriching themselves as formerly they had done. Therefore toward the end of this year by two other Edicts, directed to the same *Principius* he took order that such as were in these Employments already, should not forsake their Stations; and for the Supply also of those that were actually void. As to the former, he forbids that any quit his Station under pretence of adorning the Purple, or aspiring to any *Palatine* Office; To that Adoration he will have no *Officials* of Governors of Provinces, admitted; and of those belonging to the *Præfekt* *Prætorio*, the *Præfekt* of the City, and to *Vicars*, only such as by a solemn Right, every year after the term of their Employments fully expired, were allowed to do it. Now of those belonging to the *Præfekt*s, not only these called *Principes* of the Office, but the *Cornicularii* and *Nummerarii* might do it; but of such as attended the *Vicars*, only the *Principes*; But neither by aspiring to the place of a *Palatine*, nor of an *Agens in Rebus* will he have them forsake the Service, under penalty, not only of being forced back to it again, but of forfeiture of half of their Estates, and being constrained to undergo the Burthen of *Manicipes*. But for the Supply of Vacancies, though this Prince (as we have seen) was very severe against those that under any pretence forsook the Services of Corporations, yet he now permitted any *Decuriones* that served these Judges in quality of *Exceptores*, in writing Records to continue; provided, they forsook not the Duties belonging to the Courts; and when they had discharged the place of an *Exceptor*, then returned to their former Obligations, and provided they were not *Cohortales*, nor had allowance out of the Exchequer as the *Cohortales* had, whose Employment yet was sometimes extraordinarily discharged by the *Tabularii*, as need required.

He calls in
Privileges
granted as to
payment of
Customes and
other Duties.

24. As *Theodosius* three years before, so now *Valentinian* found reason to complain of the abusing of his Lenity and Indulgence, by several Persons their procuring Rescripts sordainly or surreptitiously, for easing themselves of the services and payments they were to undergo. Such as by reason of their nearness or convenient Habitations were obliged to convey Provisions for the maintenance of the Souldiers that watched upon the Borders against the Barbarians, had by Friends at Court, or money, obtained Privileges of ease; and thereupon the Garrisons and *Prætenture* were neglected. This drew from him an Edict to *Principius* (it's probable) for putting in execution an Order formerly made by one *Tiberianus* (whether a *Præfekt* or some other Officer) for regulating of this Affair, and reformation of what was amiss, though procured by the Power of any

Mini-

A.D. 385.
L. 13. de Jur. Fisc. Cod. Th. Dat. 15. Kal. Octob. Aquil. Abest. a Cod. Just.
L. 45. De Appellat. & C. Cod. Th.
L. 1. De Palatin. S. L. & R. P. Cod. Th. Dat. Perit. Cal. Septimb. Aquil.
L. 16. De Diversis Officiis Cod. Th. & L. 1. Cod. Just. De Apparitorib. Præfektis Urbis Dat. 13. Kal. Octob. Aquil.
L. 17. De Diversis Officiis Cod. Th. & L. 5. Cod. Just. De Numerariis Dat. 4. Id. Decembr.
L. 1. De fundis Limitrophis Cod. Just. l. 11. tit. 59. Dat. 8. Kal. Octob. Aquil.

Scct.4. Minister, or the furtive Deprecation (as he calls it) of any Person, forbidding all such Importunity and Inconvenience for the time to come. And he farther declares his displeasure against such Rescripts as have been obtained to the lessening of the *Annona*, or Tribute paid in Specie, or otherwise for publick Service, by a damnable Subreption, as he terms it, or Insinuation. He pronounces it manifest that such Dispensations cannot be good in Law, and commands that an equal form of Payment be observed, and with good Reason; for if Tributes were neglected, which are the sinews of War, what would become of the Commonwealth? These two Laws bearing the same Date, and agreeing much in their drift and design, are supposed to have made up one and the same Constitution directed to *Principius*, though in *Justinians* Code his Name be corrupted into *Linicius*. "But though he was careful of his Revenue, he was as kind, if not as Just, to continue the Indulgence formerly granted to the Veterane Souldiers, and not only such of them as had risen to the Protectorian Dignity, but all others who had obtained an honest Mission or Discharge; or Immunity from the payment called *Lustralis Collatio*; but with this Restriction, viz. of as much as came to fifteen *Solidi*; If they traffiqued beyond the Bounds of this sum, in Customs, they were to pay as other Merchants did.

ut confirms
me granted
the Vete-
ne Souldi-
ng.

Theodosius re-
trains libel-
ing.

permits per-
sons in Suits to
come to
Court.

He commands
the Honorati
to use Chari-
ots in Const-
antinople.

25. The CCCLXXXVI year of Christ had for Consuls, *Honorius* the young Son of *Theodosius*, by the style of *Nobilissimus Puer*, and *Fl. Euodius*; it being the eleventh of *Valentinian* the second, and the fourteenth Indiction. *Cynegius* continued still *Præfētus Prætorio* under *Theodosius*; and *Principius* of *Italy* under *Valentinian*. *Sallust* was *Præfēt* of *Rome* till the beginning of July, or thereabouts, and then was succeeded in that Employment by *Pinianus*. In the beginning of the year, *Theodosius* made his abode at *Constantinople*, and *Valentinian* at *Milan*, whence he removed to *Ticinum*, or *Pavia* in February, thence to *Aquileia* about the beginning of April, and thence back to *Milan* in the Month of June. Still we find *Theodosius* Author of the first Law in the Chronological Table, which he enacted at the beginning of the year for securing his People against malicious and scandalous Libels. "Such as should find any such Paper he commands to tear it, so that none other may find and read it after him; otherwise if he leave it, or cast away, or communicate it to the View of another Person, he shall be punished for a Libeller, except he can produce the Author: as also he prohibits him from relating the substance of what he had read and torn, under pain of being obnoxious to the punishments inflicted by the Law in such cases. And it matters not where the Libel was found, whether in a publick Place or private House, the same Inconvenience being supposed to proceed from either. *Valentinian* the elder, had by an Edict forbidden, that upon a Reference of any Matter to the Emperor, from any of the Judges, the Parties themselves should follow the Process (which was to be transmitted within thirty Days) having discovered that they were wont to apply themselves to great Persons, and by money or favour so to work, as to obtain Rescripts, right or wrong, from the prejudiced and abused Princes. "This now *Theodosius*, in another Edict directed to *Cynegius*, declares he had taken into full and mature deliberation, and he thinks fit what was before in general and indistinctly ordained, now so far to regulate; that if within the space of a year the Prince his Answer be not obtained, then may the Parties concerned come to Court, and bring with them all the Acts, and the Copy of the Reference or Consultation. For as the Emperors desired to dispatch these Businesses without the Interposition and purchased Sollicitations of their Officers; so on the other hand would they not have these Suits delayed so long as their corrupted *Scriniarii* or Judges, by whom the References were made, desired they might be.

26. *Theodosius* making his usual Residence at *Constantinople* bent his Indeavours, as we have seen already, for the Inlarging and Beautifying thereof. For the further splendor of it, now terming it the City of most Sacred Name, he directed a Law to *Neposianus* its *Præfēt*, thereby injoyning "That all the *Honorati*, whether such by Civil or Military Dignities, always should use that sort of Chariot called *Carruca*, and drawn by two Horses, as belonging to them. By *Honorati* are meant both those who had discharged publick Offices, and such as had obtained those Dignities by Codicils; who, forasmuch as in those days the Use of Chariots was common in the City (though in the times of former Princes it was invidious if not unlawful) are hereby required not to live below themselves, but make Use of that drawn with two Horses, which was peculiar to them, as the *Carpentum*,

A.D.
3 8 5.
L. 7. de Di-
versis Rescri-
ptis. Cod. Th.
& L. 7. Cod.
Just. de Anno-
nu & Tributis.
Dat. 8. Kal.
Odob. eadem
Principio.
Item L. 20. de
Annona & Tri-
butis. Cod. Th.
L. 14. de Lu-
strali Contat.
Cod. Th. Dat.
ad Principium
Vitæ Præd.
Non. Nov.

A.D.
3 8 6.
Honorio
N.P. &
Euodio
Cof.
L. 9. de Famo-
sis libellis. Cod.
Th. Dat. Cyn-
egio 14. Kal.
Feb. Constanti-
nop.

L. 34. de Ap-
pellat. Cod. Ti.
L. 47. eod. tit.
Dat. Cynegio
7. Kal. Feb.
Constantinop.

Omnes Honora-
ti seu civilium,
seu Militarium
dignitatum,
vehiculis dig-
nitatus sue
(id est Carrucis
bivigis) intra
Urbem sacra-
tissimi nomi-
nis, semper
utantur. Dat.
3. Kal. Feb.
Const. int. L. un.
de Honorat.
vehiculis. Cod.
Th. lib. 14. tit.
12. & L. un.
Cod. Jus. eod.
tit.

Sect. 4.

He encourages
the *Agentes in
Rebus*.

or the other drawn by four, to the great Officers in actual Possession; as the *Præfects* of both sorts, the *Vicars*, and Governors of Provinces, who according to the diversity of their Dignities, and Places had them more or less stately. We have heard nothing, of a good space, concerning the *Agentes in Rebus*; for the reformation of whose extravagant Courses, Princes, as we have seen, were constrained to make several Laws; and that, if we may judge charitably, with some Success. For now we find *Theodosius* extending his Favour to those of them who had run through the several Employments, and come at length to be *Principes* of the Office; for he ordains by another Law directed to *Cynegius*, "That they, for a Reward of their Labours, not only enjoy the place of *Principes*; but that no Officials be sent out upon publick Employment, as fetching up Prisoners and the like, except by order of the *Princeps*; for they had Fees belonging to them from such Services, as also upon Causes that were admitted to be tried, and from such as were admitted first to be Officials. Nay, by another Edict directed to the same hand he declares "That by Codicils having given to such as had been *Principes*, the Honour of being placed amongst the *Consulares Adlecti*, he will by authority of this Law have them honoured by all Judges in that Degree and Quality. He had formerly given them precedence before *Rationales*; but set them behind those that had been *Præsidents*; but it seems afterward had assigned them place amongst these last mentioned, by a Law which is not now extant. Having this Honour conferred on them in the Senate, it's likely that for all that, it became a Question whether they should be received in the same degree of Respect and Quality by the Judges or Governors of Provinces, who looking disdainfully upon them, might grudge to own them so far in their ordinary salutations, and sitting in their Courts; and perhaps *Cynegius*, being consulted, knew not how to advise, and thereupon had recourse to the Emperor. He seems to reprehend the ordinary Judges, it being consequential enough, that if in the Senate they had obtained this Honour, it should also be imparted to them in their Company. But otherwise the Prince, who was the Fountain of Honour, might confer it as it pleased himself. Therefore as *Theodosius* gave the *Principes* of the *Agentes in Rebus* Place but amongst the *Consulares Adlecti*, *Theodosius* the younger, conferred on them the Dignity of *Vicars*; nay, *Honorius* his own Son bestowed upon them the *Proconsular* Dignity.

A.D.
386.L. 3. de Prin-
cipibus Agen-
tium in Rebu-
Cod. Th. Dat.
pud. Kal.
Mart. Const.L. 5. de Agen-
tibus in Rebu-
Cod. Th. Dat.
Non. Mart.
Abest. à Cod.
Just.Removes an
Abuse in the
Collection of
Taxes.

27. About this time he endeavoured to remove another Abuse in the Collection of the publick Taxes. When any Tax seemed to be unequally laid upon Lands, an Officer called *Perequator* was sent, who, upon View and other Evidence, might regulate that inequality, by laying the burthen where it ought to be, and give Relief as the case required. His Intelligence he usually had from the Stewards or Managers of the Lands, or from the Husbandmen themselves who had reason to understand the true Extent and Value, of the Grounds; and therefore their Lords against the time of the coming of the *Perequator* would call away their Bailiffs and send them to some other place, or else arm their Husbandmen with contumacy against him, so as to give him no light, for making that Reformation, and inducing that Equality, he came about. To correct this Presumption of the Lords, he ordains "that the *Perequator* shall go on with his work, notwithstanding the absence of the Bailiff, and regulate the Cess as he shall see convenient, and to his Regulation or *Perequation* the Owners shall be bound, and yield obedience. Thus, by way of punishment, for Contumacy, might a Tax be laid in the Absence of the Owner of the Ground or his Substitute, though ordinarily it could not be without the presence of one of them. For great respect was had in those times to the Property of the Lords, or Owners, though the *Censitores*, or Assessors were wont from their Husbandmen or Tillers of the Ground to Exact an Oath concerning the Quality and Value of them; against which Custom, as opening the way to Perjury and other Inconveniences, *St. Basil* declaims in an Epistle written to one of these *Censitores*, as *Gothofred* observes. Now still again he concerned himself for Corporations against such as should desert their Services; so that if a *Curialis* had procured himself to be made a *Senator*, though he had substituted his Son, or any other in his room, yet should he be constrained, to discharge what belonged both to that Substitute and himself; that is, what Service or Expence was due both from a Senator and a *Curialis*; in like manner as at this time, if one were both a Senator, and a *Dux Rei Militaris*, he was subject to a double burthen of that Payment called *Glebalis Collectio*; such as were *Duces*, when their Offices were discharged, becoming *Senators* upon

L. 2. de Cen-
sitoribus. Co-
Th. lib. 13.
11. Dat. C.
gio 6. Kal.
Hinc interp-
ta. L. 3. Co-
Just. de Cen-
sitoriL. III. de
curion. Cod.
Dat. Cynegi-
pud. Kal. M
Abest. à Co-
Just.Vide Gotho-
frid. in L.Concerns
himself for
Corporations.

Sect. 4.

For the
Proximi of
the Scrinia.But Refrains
too great Ex-
pence in his
Officers.

upon this very account. Having formerly granted to the *Proximi* of the three *Scrinia*, viz. *Memoria*, *Epistolarum* and *Largitionum*, the Honour of *Vicars*, or those that Governed *Dioceses* for *Prefecti Prætorio*; by this same Constitution, directed to *Cynegius*, he declares, "That it shall not commence as formerly from the time of their going out of the Place of *Proximus*, but upon their very entering upon it. But as hereby he was very indulgent to his Officers, so was he, about the same time, as good an Husband in the management of the Revenue, with which some of them made more bold than welcome. Two years ago he declared, That, except those whose number and service was set and defined, none whatsoever should have the usual *Annone* or Allowances, nor receive the usual New-years-gifts, nor any more than his set allowance. However most of the *Palatines* belonging to the *Comes Largitionum* had exceeded their Bounds, and both as to New-years-gifts, Cloaths and other things had procured more than what was allotted to their Quality and Condition. For, besides New-years-gifts, which the Prince was wont to distribute in Gold on New-years-day, to those that served both in Camp and Court, they had other Allowances which consisted in four things, viz. the *Annone*, properly so called (which were Corn, Wine and Horse-meat *in specie*) Cloaths; Silver; and that they called *Ministerium*, or Servants to attend them. And sometimes the case required that some Persons for their extraordinary Merit, and an Encouragement to others, should have the Allowance of those above them, each having more or less allotted him according to his Degree. But the Bounty and good Nature of Princes was so abused, or those who had the oversight so corrupted, or partially inclined, that the standing Rule was broken, and undeserving Persons got the greatest share; which preventing all rewards due to Virtue, and diminishing the Revenue, *Theodosius* now commanded *Proculus* his *Comes S. Largitionum*, "That what any man had more than his Due, should be taken from him, and that he should see that no man had greater Allowance than what belonged to his Place and Quality.

The Rapacity
of publick Mi-
nisters great at
this time.

28. We must confess, that herein we may believe *Zosimus*, that at this time, or a little before *Theodosius* his shutting up all the *Pagan* Temples, great Clamours were made by the People against the Covetousness, Rapacity and Corruption of Judges; although his Malice drives further, and derives it from other Causes than he ought. This the Emperor, by a publick Edict directed to the Provincials, "testifies himself, wherein he commands, nay intreats them, that if any of the *Honorati*, *Decuriones*, *Possessors* of Lands, nay, *Coloni* or Husbandmen themselves, or any other of whatsoever Rank or Quality, were by any Judge any way injured; if he knew any such who had been bribed to give Sentence, that had spared any guilty person for Reward, or punished out of Revenge or Malice, or, in conclusion, could prove any Judge to be corrupt, such an one would either during the Administration of such a Governour, or after the expiring of his Office, come forth, accuse, and make good his Charge; and if he so did, he should carry away both Victory and Renown. Hereby, though ordinarily a Magistrate could not be accused during his Office, which was usually for Term, yet he permits, nay desires he may be charged when in Authority. And as *Constantine* the Great, formerly upon conviction of the Offender, promised the Accuser his Dignities and Estate; so by Glory and Renown, are not here to be understood Dry and Empty Fame, but Employment in the Commonwealth. Upon this same account, perhaps, it was that about this same time he forbids "That any *Apparitor* belonging to the *Prefectus Prætorio*, any *Palatine*, any Souldier or other that had continued in such Employment, be by a Judge in his Province commissioned to put any Sentence in Execution, at the request of any Person that hath a Suit depending, whether it be in a publick or private Cause. If he permitted it contrary to this Order, both he and his Office should not only incur loss of Reputation, but damage also in his Estate. The Apparitors of *Prefects* were very high and insolent, as we have seen formerly, the *Palatine* Officers also bold and confident, a Souldier fierce and cruel; and one long practised in Acts of severity would have little Pity; therefore all of them were unfit to be employed; for they would oppress the poor Provincials, and be proper Instruments for a Corrupt Judge to bring about his Rapacious Designs. But while thus *Theodosius* employed his time in relieving of his People against the oppressions of seeming Friends, or homebred Enemies; a Noise was made of publick Hostility; that *Thrace* was invaded by those who carried not only Destruction in their Hands but openly in their Faces. Against them therefore he turned himself.

A.D.
386.L. 4. de Proxi-
mis, &c. Cod.
Th. & L. 1. Cod.
Just. cod. tit.
Dat. prid. Kal.
Maii.L. 11. de Pala-
tina S. L. &
R. P. Cod. Th.
Dat. Non. Maii.
Constantinop.
Abill. à Cod.
Just.L. 6. ad Legem
Juliam Repre-
sentationum Cod.
Th. & L. 4. Cod.
Just. cod. tit.
Dat. 10. Kal.
Jul. Constanti-
nop.L. 8. de Officio
Rektoris Pro-
vincie Cod.
Just. lib. 1.
tit. 40. Dat.
Cynegio Non.
Aug.

Sect. 4.

The Gruthingi
 desire to
 pass the Ister.

29. A certain Nation now appeared beyond *Ister*, unknown to other sorts of People, but called by the Barbarians of those Tracts, *Gruthingi*, *Grutungi*, *Gothunni*, or by other Names resembling these; each Country differing from other in its Pronuntiation, especially of strange and foreign words. This Nation being too Numerous, furnished also with Arms sufficient for a bold Undertaking, and excelling in strength of Body, made no difficulty of piercing through the Territories of other Barbarians that lay in their way, and came to the Banks of *Ister*, which they demanded leave to pass. *Promotus* who Commanded as *Magister Militum*, in these Parts, extending his Forces as far in Length as he could, upon the Rivers side, opposed them all he might, and to his other Attempts *Zosimus* tells us, he added this Device. He procured some whom he could Trust, and that understood the Language of the Barbarians to go over to them, and promise for a very good Reward, to Betray both the Roman Captain and his Army into their Hands. The Barbarians affirmed they could not pay so great a sum; but the Messengers, to gain the firmer Credit, still insisted upon it, and refused to make any Abatement; at length they came to an Agreement, and part of the Reward by virtue thereof was to be paid down. All things being agreed both as to time and manner of the Fact, the Messengers then acquaint the General in what way the Barbarians would Attacque him when Night should come. The best part of their Army they put into Boats, and ordered it in the first place, to Land, and fall upon the sleeping Soldiers, the next in worth they agreed should give those Relief, as occasion should serve, and then the rest were to follow. *Promotus* making Use of his Intelligence, got together his Boats, and placed them so, as the Prowes were inward or looking one toward another. He placed them three in Depth, and in length stretched them out for twenty Furlongs on the side of the River, whereby he kept the Barbarians from Landing, and meeting those who came in their little Boats, sunk all he could light upon; for the Barbarians, the Night being dark proceeded with all Confidence, knowing nothing of the preparations of the Romans. At length, *Promotus* made Use of his great Vessels, and plied his Gallies so with Oars, that he overturned all before him, or if any escaped, they fell into their Hands who were placed all along the side, and there perished, none being able to pass this Rampart. So great a Slaughter being made as scarcely had been known in a Fight upon the Water, the River was filled with dead Bodies, and covered with Weapons, which were of such Materials, that they would not sink. If any men could Swimm they escaped not them, who were appointed to receive them in the Arms of Death before once they could get to Shoar.

Are defeated
 by *Promotus*.

*Aufi Danubium
 quondam tra-
 nave Gruthungi
 in lintres jre-
 gere nemus, ter
 mille ruebant
 per fluvium ple-
 ne cuneis im-
 manibus alni.
 Dux Odotheus
 erat, tanta co-
 namina classis.
 Incipiens etas
 Et primus
 contudit annus
 Submersa sedite
 rates &c. Ita
 Claudianus de
 4. conf. Honorij.*

Gerontius de-
 feats another
 Party of
 Barbarians
 without Or-
 der.

30. The Flower of the Barbarian Army thus destroyed, the Roman Soldier betook himself to his Booty, seizing as he could, the Women and Children, with such Plunder as he could find. *Theodosius* the Emperour lying not far distant, *Promotus* sent for him that he might be witness of the Victory. He having viewed the number of the Prisoners, discharged them of their Bonds, and gratified them with Gifts, by this humanity to gain their Affections, that he might serve himself of them in the War he designed against *Maximus*. *Promotus* was continued in his Command in *Thrace*, and reserved for the same designed War. And here our Historian acquaints us with another story like to this, which he thinks it worth the while to relate. In that part of *Scythia* which was contained in *Thrace*, was a Town called *Tomos*, held with a Garrison, and commanded by one *Gerontius*, a man excelling in strength of Body, and otherwise very able in matters of War; and near to the Town lay some Barbarians quartered there by order of the Emperour, who had made the best Choice he could, and indeed they were men every way excellent for Accomplishments, both of Body and Mind. Yet though by him they had been caressed both with greater allowances and honours, than other persons, yet never did they cast in their Heads how they might make answerable Returns, but both contemned the Governour and his Garrison. *Gerontius* was not ignorant of their Demeanour, nor that they had a Design upon the Town to make Disturbance, which resolving to prevent, and chastise their petulant humour, he communicated his Purpose to the most prudent of his Soldiers. They hung back out of fear, apprehending the strength of the Barbarians such as they should not be able to grapple with it; which he having found, resolved with his own Guard to oppose himself against them all; and out of the Gates he issues, while his Men either slept in the Town, were by fear held in their Quarters, or repaired to the Walls, thence to behold the Success. The Barbarians fell on deriding his Madness, who seemed

to

Sect. 4.

to them, to court Death, and sent out some of their stoutest Men against him. With one of these he grappled, and contended so long, till a Soldier of his Guard beholding them so yoked, cut off the Arms of his Enemy, and threw him from his Horse, which done, *Gerontius* fell upon others of the Barbarians, to their no small astonishment at his Valour. By this time they that beheld from the Walls, overcome with Admiration at the valour of their Governor, and Shame that they should stand idle while he so gallantly demeaned himself, resolved to Act like *Romans*, and issued out of the Gate upon the Barbarians. Some of them they killed, and such as escaped fled to a place honoured by Christians, and esteemed as an *Asylum*. Now *Gerontius* having thus delivered *Scythia* from Imminent Dangers, by Conquering the Barbarians through his great Valour, expected to be rewarded by the Emperor. But he was not a little angry at the Death of those he had so greatly honoured, though they had proved the Bane of the Commonwealth; and causing him to be apprehended, he called him to Account for the great Service he had performed to the *Romans*. He pleaded, that the Barbarians were Rebels, urged their Rapines, and related what Slaughter they made of the People: but the Prince would not hear him, but persisted in this Opinion, that he had destroyed the Barbarians not for any good he thereby designed to the Publick, but to get to himself the Gifts which he had formerly bestowed on them. As to this, *Gerontius* replied, that he had sent away those things (being Golden Chains) after the Death of the owners, into the Treasury; but for all this, he could scarce redeem himself from imminent danger, by all he bestowed upon the Eunuches; so well was he rewarded for his fidelity to his Country. Thus *Zosimus*, or Malice for him.

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31. The Substance of his Story concerning *Promotus* and the Action against the *Gothungi*, we have reason to believe; though to it other Circumstances may be added. He confesses that at the time of the Victory, *Theodosius* was not far off, and indeed we find him at this time departed from *Constantinople*, and distant in *Thrace* at *Melantia*, some eighteen Miles from the City. For, thence on the third of

Theodosius not
so distant at
the Defeat of
Guthungi.

September, he gave out a Constitution to *Cynegius* for the better Conveyance of Corn and Provisions to the Army, forbidding on pain of Death, that it should be done as formerly, as that those that lived in Inland Countreys should carry it to

L. 22. de An-
nona & Tribu-
tis Cod. Th. &
L. 9. Cod. Just.
cod. tit.

the Maritime, and those that inhabited in the Maritime Tracts to the Mediterranean. This no doubt had relation to the War he now made upon those Invaders; having in it possibly seen the Inconveniences that arose from such a preposterous sort of Conveyance. On the same day he inscribed another Edict to all *Comites* and *Magistri Equitum* and *Peditum*, wherein he charges them that they take such Order with the *Duces*, *Tribunes*, and *Præpositi*, that all that were Fugitives may be returned back to the places or Courts to which they belonged, both from the Army, and the divers Offices to which they had betaken themselves; no prescription of time being allowed them, if their Fathers or Grandfathers were *Decuriones*, and he threatens the *Decuriones* themselves if they do not accordingly force them back wheresoever they are found, and how unwillingsoever they be to return. This Law we may also suppose to be made, when the Barbarians were beaten, *Thrace* delivered, and there was now remaining no such great need of Soldiers. As for the other Story *Zosimus* tells, of *Gerontius* his bold Adventure and Success against the Barbarians; however it proved, any unprejudiced Person would say it was more prosperous than advised; and that *Theodosius* in prudence had reason to call him to Account. For the Rules of good Government will not permit that a Private Officer, as he was, shall without Orders attempt a matter of such Concernment, when the safety of a Garrison and the publick Faith is concerned. *Tamos* was not so far distant from *Constantinople*, nor the Danger so pressing and sudden, but that he might have acquainted the Emperour himself therewith: at least some of his Superiour Officers. If private Men may so run on their own Heads, it's needless to have any Superiour Directors. *Gerontius* though he might not be enamoured of the Golden Chains about their Necks, yet seems to have been Angry with the Barbarians for their so well faring; A wonderful Heat it must have been that hurried him on upon such an Enterprize contrary to the Judgment of those about him, and without any Assistance, or probability of escaping. But see the Malice of this Pagan Writer. What he condemns in *Theodosius*, he would have commended in *T. Manlius Torquatus*, or *L. Papyrius Cursor*.

L. 113. de De-
curion. Cod. Th.
Abest à Cod.
Just.

justly called
Gerontius to
account.

32. However, *Theodosius* on the twelfth of October, returned with his Son *Arcadius* in Triumph to *Constantinople*, where having leisure to hear Complaints, and

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Returns in
Triumph to
Constantinople.

where he re-
strains exces-
sive Usury.

Oppression
also arising
from Recei-
vers of Tri-
butes.

and to consider what was amiss in the State, he set himself to the reformation of several things. At the suggestion of *Cynegius*, upon whom he much relied; or persuasion, as is probable, of *Nestarius* the Bishop of *Constantinople*, whose advice, especially in matters relating to Conscience and Religion, he much followed, toward the latter end of the Month, he published a severe Law against excessive Usury; ordaining, besides Restitution, a forfeiture of fourfold, for the time to come, if any should exceed the hundredth part of the Principal; and of the Double value, if any could be Convicted to have done it for the time past; and this very earnestly he requires to be Executed, *without delay, without any rest, and forthwith*, terming this Offence no better than a Tyrannical Fury. And indeed so great was the Excess in this kind at this time, that the Fathers mightily declaim against the practice of Usury; but yet *Theodosius* imposed no greater a Penalty upon the Transgressors, than what of old had been done by the Laws of the twelve Tables. For the Antient Romans punished a Thief in double, but an Extortioner in fourfold; by which its easie to see which of the two they did most Condemn. But much it is, that neither by this Law, nor any before it, one that exacted too much Interest in this kind, should be rendred infamous; only that Mark was put upon such who required, and took Use upon Use, by *Dioclesian*. Now this Law is but half of a Constitution, whereof the other part is against such as received other mens Husbandmen or Farmers at this time, which together with Usury were the two great Grievances in those days, and possible it is, that those poor men, oppressed with two great Interest for what they took up in Provision or Money, were even constrained to play least in sight. However, for prevention of such great inconvenience as arose from those men, their forsaking their Charges; he ordained, That whosoever should intice away any such Husbandman belonging to another Person, or conceal one who absented himself, should for every such Offence committed against a private person, forfeit six Ounces of Gold; and if the Man belonged to the Prince his Patrimony, an whole pound.

33. But yet one of the greatest Grievances still endured by the poor Provincials, arose from the Avarice and immoderate Exactions of those called *Susceptores*, or the Gatherers or Receivers of Tributes. It being supposed that such were made out of the *Curie* or Courts of Corporations, he will have them Created not secretly, but in the greatest Assembly of the Body, according to the Opinion, and with the Consent of all, and thereof Acts to be solemnly made. Then will he have their Names signified to the Governors of Provinces, that they may know who it is they are to look to: and in the last place he requires that the Nominators of them, or the Court it self, be answerable for their Actions, which is very considerable. But whereas by way of Tribute the Provincials were wont to pay four sorts of things, *viz.* Wheat, Barly, Wine and Lard; and the Susceptors were apt to exact greater quantities than were due; he renews what he had formerly enjoyned concerning Measures of Brasse or Stone, and Weights, publickly to be placed in all Cities and Mansions (for in Mansions also these *Species Annonarie* were wont to be laid up) that the People might certainly know what they were to give, and the Officers duly punished, if they forced them to exceed. And whereas as was formerly said, the Receivers of Corn, Wine and Lard were wont to have an *Epimetron* allowed them, or so much over and above, for that Leakage and Loss there would be of the Commodities in their Transportation; to cut off all Cheats, whereby the People had been hitherto abused, he declares, That it shall be the fiftieth part of Wheat, the fortieth of Barley, and the twentieth of Wine and Lard. This shall be allowed through the *East*; to the Prefect of which (*Cynegius*) this Law is also directed. Only in *Armenia*, that most remote Province of the Empire and Bordering upon the *Persians*, from which yet these Provisions were wont to be transported to *Constantinople*, out of Humanity, he gives them leave to take the fortieth both of Wheat and Barley; and of Wine and Lard the fifteenth. Thus he provides against the Frauds of these Collectors in the *East*; but particularly in *Aegypt*, which was especially wont to abound with Oppressions of Officers and Complaints of poor people, he endeavoured a Reformation at the latter end of this year also, in another manner, by an Order directed to *Paulinus* the *Prefectus Augustalis*. He expressly charges, that by holding perpetually this Office or Employment of Receiver, none have the opportunity of vexing the Provincials (as it were by a certain sort of Domination in Oppression) but that by the Care of the Governour of the Province, they be changed in the solemn way of Election, every year; except the Custome of the City, or the scarcity of *Curiales* therein (from amongst whom

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Chron. Hist.

L. 2. de Usu
ria. Cod. Th. l.
2. tit. 33. D.
Cynegio 8. K.
Nov. Abist d
Cod. Just.

Quadrupli
na obligati
constricte, s
cessatione, s
requis, pro
nus ablata
redhibebis.

Vide Gothof
in L.

L. 2. de Fugi
tivis Colonis
Cod. Th. lib.
tit. 9. & L.
Cod. Just. h
interpolatur.

L. 20. de Su
ceptoris. Cod.
Th. & L. 8.
Cod. Just. to
tit. Dat. Cyn
gio 6. Kal.
Nov. Constant
nop.

L. 21. ejusd.
tit. Cod. Th.
L. 9. Cod. Ju
Dat. 4. Kal.
Decemb. Con
stantinop.

L. 22. ejusd.
tit. Cod. Th.
L. 4. Cor. Ju
er hac L. Con
stata est. D.
pud. Kal. E
cemb. Const.
stantinop. v
corruptionum
dominationis

lect. 3. whom they were to be chosen) required they should hold for two years together. Upon Default, he threatens not only with a Fine, but other Punishment both the *Præfectus Augustalis*, and his Office.

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Valentinian
 employs him-
 the same

34. So employed we leave *Theodosius* this year, in providing for the Defence of Cities and Countries against the Oppressions of his Officers. And removing Westward, we find *Valentinian's* Thoughts taken up the same way; the first Law of Civil Government we meet with, being concerning the Course and manner of the Election of the Officers which had their Name from defending the Cities, and one of whose great works it was to protect the People against the Oppressions of the Collectors. By his Edict directed to *Eusebius*, he ordains, That they be chosen by the Decrees of the Cities, that is, by Consent or Subscription of all the Citizens; the Municipal *Honorati* and Common sort being called together by Decree of the *Curiales*. For the Office of the *Defensors* being of the same Nature with that of *Tutors* or *Guardians*, they being Chosen to defend the Common People from *Affronts* and *Injuries*, (helpless, by reason of Meanness or Poverty) as these to protect Pupils (unable to help themselves for want of Age) it was convenient that the one, as well as the other sort, should receive their Charge, not by Ambition or their own Seeking, but that they should be suspected if they went about to compass the Employment. If any such were discovered, by begging of Voices to get the place, He commands *Eusebius* that he reject him, and moreover cause him to fine in Five pounds of Gold to the Exchequer; for the Confirmation of those Officers now belonged to the *Præfecti Prætorio*, though afterward, the Names of the Persons and Decrees of the Cities were sent up to the Emperour, and by him the Matter being examined, received efficacy; which was imitated at length by the Kings of the *Goths*. This Law he made at *Milan*; but removed shortly after to *Ticinum* or *Pavia*, where being solicited by the Messengers of Cities, to redress their Grievances, as we may suppose, but being unsatisfied with their manner of Address; for regulating of these Messengers of the Subject he thought fit to take further Order. And further I say, for he had made Orders formerly therein, but all little enough for the Redressing the grievance of this usual sending to the Emperour for the redressing of Grievances; for such was their usual Design. These because we have not spoken of, and they (all of them together) contain what may be said of this Subject, we shall observe from them what we may, that's useful and proper to our Work.

regulates
 the manner of
 the Messen-
 gers sent to
 him out of the
 provinces.

35. He gives leave for these *Legati* or Messengers to be sent to him, and for that Purpose for the Provincials to meet together, to consult, make Decrees and Commissionate such as they should think fittest for this Employment of laying open their Grievs, like as other Princes had done before him. But this Liberty he now extends to Bodies or Companies (as of the *Navicularii*) to Cities, particular Provinces, and whole Diocesses, which included several Provinces in them, whether Governed by *Præfects*, as the *Præfectus Urbi*, whose Diocese were the *Suburbicarian* Provinces, the *Præfectus Augustalis* who had *Aegypt* for his District, or by the *Vicars* of the *Præfecti Prætorio*; or by a *Proconsul*, as him of *Asia*; or by a *Comes*, as for Example, the *Comes* of the *East*. In the next place he permits none to hinder or obstruct these Meetings, Consultations, Decrees or Messages, not any Judge or Governour of a Province, not any *Vicar*, not the *Præfectus Prætorio* himself, though his Authority was so great, that he was vulgarly esteemed an Emperour without Purple. It's true, several would endeavour to hinder these Messages, and thereby Complaints against themselves to be transmitted. But he will have none of the Decrees sent by these Messengers, to be so much as examined or discussed by any of the Judges, and removes all Necessity of shewing them to them, whoever they were, though as we have seen, *Valentinian* the Elder, and others afterward, required that they should be entered in the Register of the Governour of the Province; so that we may justly conclude some extraordinary occasion to have provoked the younger *Valentinian* to abridge them of this Power. And in conclusion, he gives leave to the *Præfectus Prætorio*, in present or in Waiting, to consider of the Message in his Auditorium or Court; but not to determine any thing therein, but to leave the matter wholly undecided, and reserved to himself in Consistory, where it was to receive a Determination; so various and uncertain were the Cases of the Provinces and their Complaints, as to make the Emperours vary in diversity of times and affairs amongst themselves, as to this Subject. For the best way to reconcile Laws is to distinguish of times, that being fit Now, which at another time, would be very improper, as also that being suitable to one Nation or Country, which would ill

L. L. 8, 9, 10,
 11. de Legati
 & Decretis &c.
 Cod. Th. vide
 Comment. Sive
 integra Diocet-
 sis Commune
 consulerit sine
 singula inter se
 voluerint Pro-
 vincie convu-
 nire &c. L. 9.

agree

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agreed with some other People. And therefore as to this point *Theodosius* the Younger afterward thought fit once that the *Præfetti Prætorio* should first consider whether it were best that the Messengers should come to be heard, or not; and at last resolved they must be heard in his own Presence.

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36. But as *Valentinian* gives liberty, to his People to make their applications to him, and make known their Grievances, so on the other side he enjoyns them, that they bring only probable things, and not trouble him with Superfluities or Trifles. And to this purpose he declares, that the Messenger shall exhibit all the Decrees, or the Substance of what he had to say, in Writing; otherwise he shall not be heard, but dismissed without his business done. For oftentimes it hapned, that when these Messengers exhibited their Instructions, besides them they pretended that something was privately enjoyned them which they durst not commit to Writing, for fear of some great men whom it touched, the Interest of whom they found cause to apprehend about the Prince; and sometimes under this pretence they took occasion to vent their malice against one or other, according as their Passions or Interests led them. And for want of this Authentick Warrant and Testimony, the Messengers themselves might be brought into question, they that sent them denying that they had any such thing in Command, as we have already seen in the case of *Jovinus*, when the *Tripolitans* were so wrought upon by the Arts of *Romanus* the Comes of *Africk*, that they denied they had given him any such thing in charge to deliver to the Emperor, which made the poor man wrongfully accuse himself, and by endeavouring to shun, to incur punishment, saying that he had lied to *Valentinian* the Elder, who thereupon commanded him to be put to death. In the last place the Emperor takes care, that the Messages be not performed at too great an Expence to the Publick, or too much burthen to the *Cursus Publicus*. Therefore he defines the number; that each *Diocese* send but one or two Messengers. To these two or one he commands that the *Rhedæ* *Cursualis* be assigned when they come, for their Conveyance. This is the same with the *Carpentum* or *Quadriga*; and the weight of a thousand pound was put upon it; drawn in the Summer time by eight Mules, and in the Winter by ten; whereas the *Carrus* had but six hundred pound weight, and the *Birota* had but two hundred. As for that called *Angaria*, it was drawn by two Yoke of Oxen, and fifteen hundred pound weight was put upon it. Therefore one *Rhedæ*, *Valentinian* grants to one or two Messengers of a *Diocese*; and but one *Angaria* to all the Messengers of the several Provinces of one *Diocese*; for, they might each send their Messengers, but he would allow them all but one *Angaria*, thereby consulting for the good of the Provinces; but withal for the ease of the *Cursus Publicus*.

Obligeth the
Navicularii.

37. But of all sorts of men none was more beholding to him than the *Navicularii*, in behalf of whom, now lying at *Aquileia*, he made a brisk Law, or rather revived one made by *Constantine*, out of which his was transcribed with little alteration. It commands that all *Navicularii* through all Ages, be relieved from all Burthens, Services, Conlations and Oblations, of whatsoever place or Dignity they be. And whosoever shall Act contrary to this Law, whether he be Keeper of the Wharf (*Custos Litorum*) Provost of the Customs (*Præfignum* *Præpositus*) *Exactor*, *Decurio*, a *Rationalis*, or Judge of any Province, he shall suffer death; with a Confiscation of his whole Estate, which he adds to the former Penalty. He had observed (or his Councillors for him) a custom used by such as begged Estates; that having obtained them from the Prince, as if cheated to him, they would endeavour to terrifie him that was in Possession, and tire him out with a tedious Suit: Now proceeding against him, and then again desisting, with this Design, to constrain him to purchase some certainty and quiet, by parting with a share of that, which, if the matter came to be fully and indifferently heard, they despaird of obtaining, by course of Justice. Therefore to put some bounds to this Liberty, he Ordains, That if after three Citations, such an one do not appear with the Accuser, ready to make good the Allegation, he shall not only lose what he begged, but be Condemned in the expence of the Suit. This he enacted at *Milan* (being thither returned from *Aquileia*) and some other besides. It was prohibited by former Laws, that any person should govern a Province wherein he was born or dwelt; which Custom is observed here in *England* as to our Justices of Assize, and with very good reason, such as any one may easily apprehend. But now further, *Valentinian* forbids several Officers also of the Magistrates from executing any Sentence relating to the Publick, or to private persons, in the Province of their Birth or

Restrains
such as begged
Estates.And makes
other Laws.L. 17. de N.
viculariis
Th. Dat. ad
Principium
P. F. P. 12.
Kal. Maij.L. un. de Pe-
torib. & de
stratib. Cod.
Th. lib. 10. t.
13. Dat. ad
Gorgonium
Com. R. P. 8
Id. Jun. Ab.
à Cod. Just.L. 4. de Ex-
cutorib. & de
actionib. Co.
Th. lib. 8. t.
8. & L. 3. Co.
Just. de di-
vis. Officiis De-
ad Ensignium
3. Non. De.
comb.

"Habitation.

Sect.4. Habitation. He tells *Eusebius* his *Præfæctus Prætorio*, that none of his Apparitors, none of the Palatine Officers shall dare to do it, upon pain of his *Præfæctus*, his forfeiting Three pounds of Gold, and that the Apparitor offending when out of his Employment, should be forced to become a Member of the Body of the *Mancipes* or principal Bakers. Nay, if any *Domestic*, or *Pro-tector*, a *Strator* (of whom formerly) *Agens in Rebus*, or *Palatine* of both Offices should do it, when dismissed, he should pay a pound of Gold; and for as much as the *Adjutores* of the *Palatine* Offices, the *Numerarii*, or *Actuarii* of the two Treasurers were to see to those things, he Condemns them in as much; if this Law through their neglect shall be broken. Shortly after he obliged the *Curiales* of Cities and Boroughs, by declaring that none should escape their services by betaking himself to his House, that is, by Hiring his Grounds, being Stewards of his *Res privata*, or his Husbandmen; but that such should be drawn back, yet so as with Indemnity to his own private Estate, if any thing was owing it by the *Curialis*. But whereas out of the Body of these *Curiales* were wont to be Created those they called *Procuratores Metallorum*, who oversaw the Mines; when about this time the *Gruthingi* invaded *Thrace*; and some terror hereof had spread into the neighbouring Countries, those *Procuratores* (whose Work lay in *Macedonia*, the *Mediterranean*, *Dacia*, *Mæssa* or *Dardania*) thence took occasion to pretend Fear, deserted their Charges, and endeavoured to compass honourable Employments. Those *Valentinian* orders *Eusebius* to force back to their Charge, and not suffer them to obtain new Dignities, till they have filled up the term of their Procuration.

38. In the CCCLXXXVII. Year of our Lord, *Valentinian Augustus* the Third time, and *Fl. Eutropius* were Consuls, it being the Twelfth of *Valentinian*, and the Fifteenth Indiction. *Cynegius* still remained *Præfæctus Prætorio* under *Theodosius*, and *Eusebius* under *Valentinian*; who continued this year at *Milan* till the latter end of *September*: and *Theodosius* made his Abode at *Constantinople*, till they both removed to *Thessalonica*, upon such occasion as we shall discover in due time and place. Now we find *Valentinian's* Laws first upon the File, and he begins with a continuation of the Privileges granted by him and his Father, to the Physicians of the City of *Rome*; as to the Immunities of whom, we have already spoken from the Edicts of former Emperors. "But in case any thing had been acted contrary to those Laws made by them two, he commands *Pinianus*, who had succeeded *Salust* in the *Præfecthip* of the City, that it be rescinded, and the Laws made upon Reference or Relation of the Senate to the Emperors, be strictly observed. For he had taken notice that contrary thereto, some Persons had procured some surreptitious Rescripts in their own favour, by the mediation of the great ones at Court. His Fathers Ordination was, that for supplying of Places, the Seniors in the Art should be Judges of the Persons, after they had examined them; and they should succeed as they came, according to their time of Admission; but by some means or other, one was lately crept in by Virtue of a Rescript or Mandate, which dispensed both with his Examination, and also Seniority; putting him into the place of him, to whom he succeeded. This may very well be supposed to be the Case, for the very same happened Three years before, when *Symmachus* was *Præfæct* of the City; and therefore he made Relation to this very Emperour himself to this purpose. "As I reverence your Sanctions, so I highly esteem the most wholesome Laws made by your Father; who amongst other things he Ordained for the publick good gave to Professors of the Art of Medicine, Order of Succession, in case a Room was vacated by the Death of any of their Number: By this Law it is required that the first or chief of the Science be Judges of the Skill of such as are newly to be admitted; and this, they say, hath been ever since observed. But now there is one *John* (*Vir Perfectissimus* he calls him) who pretends not to the place your Fathers Edict gave him, but one next to the top, being furnished with the Privilege of the *Palatine Militia* (that is, has been *Archiatre* in the Palace) and further by a special Rescript, whereby he procured the place in reversion of *Epictetus* then alive. Now, for as much as Law and Custome both did require that the Principal Physicians should be Judges in the Point; the whole Colledge was called together to give their Opinions, of whom the most considerable, being on one side moved with a Veneration of the Law, and on the other, with reverence to the new Privilege, would not dare to speak their minds, but assigned to *John* that place empty which he should have had,

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if he had been admitted into the Colledge at such a time as he went to serve " A.D. 386
 in the Palace. But when he came to be asked for his Codicills or Letters, " 386
 whereby his Place and Rank might be known what it was, amongst the *Palatine Archiatres*; he affirmed they were stolen from him, and could not be produced; but on the other hand, many of the Physicians shewed several Copies " of some, who though they came from Court, yet passed into the Colledge in " the same way and method as others did, and in observance of the Law. Wherefore perplexed in a doubtful Case, as neither daring to break your Fathers " Law, nor to refuse your special and particular commands; I have sent the Allocations of the Parties, and referred the whole matter to your cognizance, " from whom I expect what course to take: it belonging to Imperial Authority " alone to interpret Laws. Such is the Relation or Consultation made by *Symmachus*, to which this Law might seem a direct and full Answer, but that it bears Date in the Third year from his Praefectship.

Ensignius,
 the Praefect,
 his care for
 Buildings and
 Highways.

39. The Spring now coming on, *Ensignius* the *Praefectus Praetorio* of Italy, set himself to the repairing of the High-ways of that Country, which very much agreed with the Condition they were in at this time, and with the humour and Inclination of the Person. For now also he took great Care for the raising of a *Basilica*, as they called those publick Buildings with Galleries; and of a Bridge, which being committed to the care of one *Bonofus*: he used his utmost endeavour for carrying on the work; but it was lett, and received much delay, by reason that one *Cypriades* a *Comes* and *Mechanick* was joyned with him, which put *Symmachus* to trouble as well as others, as he shows by several of his Epistles. But in order to the repairing of the ways, *Ensignius* procured a Rescript from *Valentinian* as full as he could desire; for, whereas several Ranks pretended an Immunity from this service, as Illustrious Persons, the House of the Prince, Church-men, those Possessors of the Emperors Lands in perpetual Right called *Emphyteuticarii*, and *Veterane* Soldiers; he expressly commands, that none whatsoever be admitted as Free, and indemnified from this work. And as by another Law, a penalty had been imposed upon the Lords of the Adjacent Grounds if they refused to contribute; so now, if their Actors or Bailiffs bearing themselves high upon the qualities or privileges of their Masters, would not obey; he orders that they be seized on, and condemned to the service of his own House, or his own Domaine; so as to be amongst the servants of his Patrimony, or *Res Privata*.

Epp. 71. i.
 76. l. 5. c.
 38. l. 10.

L. 3. de Im-
 muniend. c.
 Th. lib. 15.
 tit. 2. De
 Kal. Mart.
 Abest à Con-
 Just.

The Vicars of
 Praefects re-
 buked for not
 admitting
 certain per-
 sons to the
 Kisse.

But however *Ensignius* behaved himself in this or other matters; a Complaint was brought to the Emperour shortly after, against his *Vicars*, for their Insolent Deportment towards the *Domesticks* and *Protectors*; whom they refused to admit to a Kiss, when they saluted them, as the manner was toward those, who for their place or Eminency were indulged this privilege. " Amongst these *Valentinian* tells *Ensignius* he will have these Persons reckoned, and that whosoever denies them the Honour, shall be esteemed and taken as guilty of what was like to Sacrilege (as those were said to be, who were Violaters or Contemners of the Imperial Laws or Orders) because they were thought fit enough to touch or kiss his own Purple, which serves as an Argument from the greater to procure the lesser privilege. Nay, *Valentinian's* Hand being now in for Correction of the Arrogance of his Ministers; he is thought to have given a Check to *Ensignius* himself, and set bounds to the Ambition of him as well as others: For in another Law which *Gothofred* thinks made up with this one Constitution. " He tells him that the Illustrious the *Comites*, and *Magistri*, of Foot and Horse, shall exercise no Power or Authority over the Provincials: neither the most ample *Praefects* over Military men. Yet did he now enlarge the Power of *Ensignius* in one Case, or give him leave to use his Discretion. Though, as we formerly have seen, when one Possessor had Grounds in several places; it was not Lawful to pay all Tributes in one, because many Inconveniences thereupon happened; yet now it was found that when these Lands were but small, and the Tribute thence arising inconsiderable, it was not worth the while to convey it; and therefore in such Cases he leaves it to his Discretion (to whom belonged the care and charge of Tributes) to admit this Translation (as it was call'd) when convenience should require, with these further instructions, " That the payment should be made where the Possessor had most to pay, and that it should be done without fraud or detriment to the publick.

L. 4. de Im-
 muniend. c.
 Th. lib. 15.
 tit. 2. De
 Kal. Mart.
 Abest à Con-
 Just.

Pana enim
 Sacrilegii
 milis erit.

Illustrious
 Persons also.

L. 1. de Of-
 Magistri
 Titum. Coa-
 Just. lib. 1
 tit. 29.

Translation of
 Tribute in
 some Cases
 allowed.

L. 3. Ne Co-
 lationis tra-
 latio postu-
 tur. Cod. T.
 lib. 11. tit.
 22. Dat. 1
 Kal. Maii
 Abest à Con-
 Just.

Sect. 4.

Theodosius sub-
jects Curiales
to the torture
by Plummets.

40. The Legislative Power being such as affords proper remedies for the Distempers of a State, must needs alter its Rules and Decrees, as the Temper of the Commonwealth it self doth alter; the same Laws no more suiting a Nation, or People at all times, than the same Physick, the same man in all Distempers, or the same Clothes in all differences of Health and Age. Therefore *Theodosius*, though he was so very Indulgent to Corporations, and made so many Laws for security of the *Curiales* from tortures and other matters, yet now thought fit, if not to retract, to lessen and regulate what he had ordained concerning their Immunity. And this was by reason that the *Decuriones*, or Principal *Curiales*, having the Care and Management of the publick mony, making the Distribution of the Tributes how they should be paid, and being also employed in gathering of them, often spent the money they had in their hands, turned Bankrupts; and, as Spendthrifts must, if they have opportunity, be Rapacious, were immoderate and cruel in their Exactions. "He commands therefore that in all these Cases the antient custome of subjecting them to the torture of Plummets be revived, and that not only by Order of the *Præfetti Prætorio*; to whom, as he tells *Cyngius*, for the Dignity of their place, the chief Authority was committed; but also of the ordinary Judges, for the restraining of whose severities against the *Curiales*, several Laws had been made; and therefore it might be much doubted whether they would adventure on it; though hereby he seemes to abate some of that respect he had for Corporations, yet much at the same time, he enforced several Laws he had formerly made against the *Curiales* their forsaking their Charges therein, and this of new he enjoyned, "That though by reason of Age a man regularly obtained Excuse from Services, yet he will not have him wholly discharged, but be present at Elections and such Decrees as might best be dispatched by full Courts. But *Theodosius* his Ears were now open not only to complaints he received of things done at home, but also from out of the ordinary Verge of the Roman Empire. Foreign Nations either for the Reverence they bore to the Majesty of the *Romans*, or out of fear of their power, to which in some sort they submitted, often presented the Emperors with Golden Crowns, or the Gold called *Aurum Coronarium*. Amongst these inhabiting towards *Persia*, were there certain *Satrapæ*, at this time; or Governors of Provinces, who owned the Sovereignty of *Theodosius*. Indeed *Ammianus* tells us of Five of those Provinces formerly taken from the *Persians* by *Maximian*, but restored back again by *Jovian*. One now belonging to the Empire, though Governed by its peculiar Laws and Customes, was *Sophene* (which some make part of Old *Syria*, and others include within the bounds of *Armenia*) the Inhabitants whereof complained that they were burthened by the payment of the now mentioned Gold. *Theodosius* hereupon directed his Edict to *Gaddanas* the *Satrapa* of the Province, and therein he tells him he decrees That it shall be restored back to them again, from whom it seemed unlawfully taken. "And that all *Satrapæ* present those Crowns, which they owe, out of their Devotion to the Roman Empire, solemnly to his Serenity, at their own charge. For from him they seem to have renewed their Commands, and to have paid those Crowns, or this Gold as an acknowledgment.

Celebrates the
Quinquennialia
of his Son
Arcadius, and his
own Decennalia.

41. Possibly he gained much Repute with the Inhabitants of these Provinces, by his favour extended to them in this kind. But however it hapned, he lost as much Love in one of his most eminent Cities, by a rigorous exaction of the Tributes. We are to know that this year he celebrated the *Quinquennialia* of his Son *Arcadius*, or used the solemn and usual way of rejoycing for his entring the fifth year of his Sovereignty, as he did also afterward his own *Decennalia* for joy that he was arrived in the tenth year of his Reign. For such was the Custom of *Roman* Princes, that, when named *Augusti* by the Souldiers, to bind them the faster to them they gave them a *Donative*; which was also observed by their Sons, although they succeeded by hereditary Right, as *Herodian* notes concerning *Commodus*. The Emperors, in like manner, gave the Military men a *Donative* in their fifth and tenth years (*Quinquennialia* and *Decennalia*) because, as *Dio* writes, this was a kind of Renovation, or New beginning of their Empire, viz. to every man five *Aurei*; which solemn custom was at length abolished by *Justinian*, if he that wrote the secret History fathered upon *Procopius*, tell true. This was performed by *Theodosius* at this time, and being to make this Largeis, both upon his own and his Sons Account; the Expense must necessarily require a great sum of money. For this he exacted an answerable Supply of the People, which cast the Inhabitants of *Antioch* into a great sedition, insomuch that they demolished

A.D.
380L. 117. de Præ-
torio. C. 1. Th.
de L. 4. C. 1.
J. 1. cod. tit.
Dat. Kal. 1.
April. Cons. p.
Non solum a
volis (quib.
propter lo. i.
dignitatem
rerum s. non
commissi et)
rerum a J. di-
cimus Ordina-
tis.L. 116. de 118.
epid. tit. Cod.
Tit.L. ult. de Auro
Coronario Cod.
Theod. Dat. 18.
Kal. Jul.
Cons. p. Abest. a
Cod. J. ut
temporaria &
historia.Hac donati-
vum vicentior
Latinitas Au-
gustianum
dixit. Vide
Valerij Annot.
in Ammian.
Marcel. p. 314.Is at great ex-
pence, and
raises money.

his Statues, as *Libanius* the Sophist relates. But *Zosimus* must still write in his own way; for after the sad story told of *Gerontius* he adds, that Matters going so wretchedly in the Reign of *Theodosius*; and no excellent Action or what tended to Virtue, being encouraged; but every thing conducing to Effeminate and Luxury increasing by whole Ells, as the Proverb then went; the Citizens of *Antioch*, that great City of *Syria*, not enduring that multiplication of Tributes, which every day was contrived by the Exactors, fell into tumult, defaced both his Statues and those of the Empress, and cast out Speeches, not untrue or unproper to the state of Affairs, but suiting the Liberty and Urbanity of Speech which was familiar to them. The Emperor hereat being angry, threatened to punish this Offence, according to its desert; which the *Decuriones* of the City understanding, sent their Messengers to him to excuse what had been committed by the Multitude. They imployed on this Errand *Libanius* the Sophist, famous for the Books he left behind him, and *Hilarius*, a Person renowned both for the lustre of his Family and his excellency in all sorts of Learning. And the Sophist in an Oration had before the Emperor and Senate, so much prevailed, that the Prince changed his Resolution, and ceasing from all Anger with the City, enjoined him another Speech concerning this Reconciliation; moreover out of Respect to the great Virtue of *Hilarius* he preferred him to the Government of all *Palestine*. Thus writeth *Zosimus* concerning this matter, who, if he could have done it, would have blamed *Theodosius* for his Clemency; why he aggravates every thing against him, and minceth every offence he had cause to punish we sufficiently understand. But however, we are informed elsewhere, both of the true occasion of this Tumult and the extravagancy thereof, and by what means the Emperor was brought to remit the punishment.

παντες
τυραννικας
λασις επι
κατα την
(το λεγομε
νον) εφ' εκ
της επιδιδ
τε, &c.

Thereupon
the people
of Antioch
rose up and
demolished
the statues.

42. That the occasion of it was the great expence, which according to the Custom, he was to make in caressing the Souldiers, and otherwise, upon his Sons and his own account, *Libanius* testifies; although our Church-Historians, as *Theodoret* and *Sozomen*, ascribe it to the Preparations for War, which some apply to that which shortly followed against *Maximus*. The Statues both of him and his late wife *Placilla* (by several called *Placilla*) they demolished, she being dead the year before; and not only theirs, but those also of his Sons *Arcadius* and *Honorius*, and of his Father *Theodosius* the Elder. To chastise this Insolence and Rebellion were dispatched away, by the angry Emperor (who most took to heart the injury offered to his deceased Wife) *Casarius* the *Magister Officiorum*, and *Ellebius* the *Magister Militum*, of whom we have heard already, and are likely to hear more out of the Laws. In the mean time *John*, who was surnamed *Chrysostom*, and then resided in that City, by his Eloquent Orations, fitted to that great danger which then impended, moved the People that committed the Offence, to a great sense of their Guilt, and Punishment. The first he made was seven days after the commission of the fault, which he so much exaggerated, as that his drift was to shew that the Hainousness of it could not be expressed. In order to this, he insisted both on the Newness and the Immanity of the thing. Nothing, he said, had been formerly than that their City more venerable; and now at present nothing was rendred more miserable. The Inhabitants thereof had been as composed and gentle, formerly, as an Horse tame and used to the Hand, that would meet those that made much of him; but now all on a sudden it kicked and spurned, and had done such mischief, as it was not any way fit to speak. He tells them he lamented and mourned, not for the sad Effects of the Emperors Threats, expected by them, but for the madness of the follies committed. For, although the Emperor were not angry, would not at all punish or chastise; yet he demands how they should be able to bear the Ignominy which they had contracted? And so falling into a passion, as he seemeth, he tells them that sorrow interrupts him in what he hath to say. He both laments himself, and excites his Auditors to do the same; and adding that Almighty God permitted this to fall out because they tolerated such as had blasphemed him, he exhorts them to Repentance in many words.

Vide Chron.
Historic. Ca.
Th. ad hoc.
Ann.

ανδραγα.

Vide Baron.
Eund. Ann.

43. The Holy time of *Lent* now was come, wherein the *Antiochians* flocked to Church, having no other comfort but what there was afforded them: and therein *Chrysostom* Preached constantly to them, being exceedingly touched with a sense of their condition, whom, according to his Place and Calling, he earnestly exhorted to Repentance. The Homilies are still extant, and in them sufficiently appears what Eloquence can do when joyned with Necessity. But the Judges in Commission

Scct. 4.
sends Offi-
s to punish
mitde-
anor.

from cer-
in Christian
emites re-
am.

The miserable
State of the
City during
the four days
of proceed-
ing.

mission for trial and punishment of the Offenders are now arrived at *Antioch*, which first they degrade from the honour of being the *Metropolis* of *Syria*, and then they shut up all the publick places; as the Baths, Theatres, Forums and others. *Laudicea* is made what Noble *Antioch* formerly had been; and the most eminent of them that were known or suspected guilty are apprehended and sent to Prison, to whom Tortures are presented; a sufficient Guard being in the mean time bestowed up and down the City, to prevent any Rising of the Inhabitants. The Judges prepare severe Inquisitions, and the Estates of those that are most suspected are seized, the Tables of Proscription being fastned upon their Doors. A great part of the Citizens, after the commission of the Fact, being aware of what would follow, when they heard that Judges, and an Army would be sent down, withdrew themselves; of such as remained, some were sent to Prison, and the rest expected hourly the Officers to be at their Gates, having no other Consolation than in their Devotions and the good effects of *Chrysostom* his Sermons. The Noise hereof could not but be strong and fly far and wide; and to the Mountains it came, where many Christians then lived an *Eremitical* life, who no sooner heard what Destruction hung over the Heads of the Citizens, but hasted thither, applied themselves presently to the Judges, and by their importunate Arguments drawn from Christian Piety and Mercy, prevailed with them to desist all farther Proceedings, till such time as a Message might be sent to the Emperor. For procurement hereof they adventured their lives, and for four days together watched the Gates of the Court, to prevent the execution of condemned Persons, as *Chrysostom* affirms, who upbraided the Philosophers of *Antioch* in this manner: Where are they now that wear the *Pallium*, and stretch out their long Beards, with their Staves in their Hands? These Philosophers of the *Gentiles*, these *Cynical* Mischiefs, more miserable than Dogs under the Table, and doing all things for the sake of their Bellies. They all then forsook the City, all ran away, and hid themselves in holes: they only, who by their works shew forth true Philosophy, as if there had been no danger at all, appeared unconcerned in the *Forum*. Those that lived in the City betook themselves to Mountains and Holes; and *Hermits*, living in Mountains came down as Inhabitants, in this dreadful time, into the City.

44. But how lamentable the Face of things was in *Antioch* these four days, wherein the Judges sate and examined the matter before they were prevailed with to stop their proceedings, the same Person, who was an eye-witness, puts his Auditors in mind afterward, to make them sensible of their Deliverance. He tells them "That when the greatest part of the Citizens out of fear was run away and had hid themselves in Caves and Holes, the Houses were without Women, and in the *Forum* were no men to be seen: possibly two or three in the middle thereof, and like nothing so much as walking Ghosts. Going then to the Hall of Justice, to see what would be the Issue, and seeing the remainder of the Citizens standing at the Gates, he most admired, that though a multitude thither had flocked, there was as profound a silence as if no body had been present, one looking at another, but no man daring to ask him that stood next him, or to hear from him what the News was. For every one suspected his Neighbour, when they perceived many taken suddenly out of the Crowd and carried in, when no such thing was once thought of. But all of them together looked up to Heaven, and in silence stretched out their Hands thither, expecting deliverance from above, and beseeching God to stand by those that were to be tried, and to soften the Hearts of the Judges to the producing of some mild sentence. Now being got into the Hall, a more terrible Sight presented it self, viz. of Souldiers every way armed, so as to keep peace and order, while the Judges did their work. Now because the Wives, the Mothers and Children of those that were condemned stood at the Gates; that no noise nor disturbance might arise, when they saw their Relations led to Execution, they caused them to be removed all away. But the most sad Spectacle was, that of the Mother and Sister of one of the Prisoners who crept through the Croud of Souldiers, and lay prostrate on the Earth at the Feet of the Judges, where hearing nothing but the Noise of the Executioners, the sound of the Blows they gave, the mourning of those that indured them, and the dreadful Sentences of the Judges themselves, they seemed to indure greater Torments than they who underwent the Punishment, being chiefly concerned lest these that were tortured, by extremity of pain should be driven to accuse their dearest Relations. The Relator of these Passa-

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ges declares, that, he seeing those who at home had their Maids and Eunuchs to attend them, and nothing wanting to their Ease or Pleasure, now lye upon the bare ground at the feet of the Company, and hearing them with all the expressions of sorrow they could utter, begging those present that they would interceed with the Judges, he could not but break out into that expression of Solomon; *Vanity of Vanities, all is Vanity*, and it put him into a profitable Fit of acting the true and Christian Philosopher in other Meditations suitable to the present occasion.

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The Judges resolve that the Punishment shall be referred to the Emperor.

Flavianus the Bishop goes to the Emperor.

Who Expostulates about the injury done to him.

Flavianus confesseth the greatness of it.

45. These that now were arraigned were the Principal of all the City; and joyful they would have been, if they had brought them word that they might redeem their lives, by parting with whatsoever else they had, even liberty. The day being over, and the issue of the Trial expected, all persons were in greater expectation and anxiety, and prayed that the matter might be put off and reserved for the cognisance of the Emperor himself, from whom they hoped for some easie Sentence: and now every where were plenty of Prayers and Tears to be observed of such as, touched with a love to their Country, desired of Almighty God that he would spare the Remainders of the City, and not suffer it quite to be rooted out. In the meantime the Judges were moved with none of these things, intent only upon that for which they came, and drove on Foot and in Chains through the *Forum* into Prison those who a while ago had Horses enough of their own they kept at home, and needed not to have walkt, besides multitude of Servants to attend them: their Goods were seized, Bills of Proscription set upon their Doors, and their Wives and Children constrained to seek for Lodging they knew not where, for every one was afraid to receive them. And yet they seemed pretty well satisfied in parting with their Estates, and the despicable condition to which they were reduced, in that they still enjoyed their lives, which they expected also suddenly to part with. But see, when nothing but death and slaughter ran in their minds, suddenly they were surprized with exceeding Joy; when the Judges resolved that the matter should be first reported to the Emperor. Not only the Monks but the Clergy then in the City, laboured abundantly in this work; one resolving at first to go with his life in his hand to the Court, and others beseeching, intreating and falling at the Feet of the Judges till they had procured a Reprieve, then kissing their Hands and their Feet to thank and keep them in the same humour. He that went to Court to intercede, was *Flavianus*, Bishop of the place, who foreseeing the Danger undertook the Employment shortly after the Fact was committed, and in his way met with the Commissioners that were sent to examine and chastise it. Being come to the Palace, as *Chrysostom* describes him, and was suitable to the trouble of mind he underwent, he stood at a distance from the Emperor, in a silent and weeping posture, hanging down the Head, and not daring to look up, as if he had been the man that committed the Crimes; and that with this Design, that he might first move *Theodosius* to compassion, and that done, then begin his Defence. For guilty Persons can only be allowed to be silent, and say nothing in Excuse for what is done.

46. The Emperor at length espied him in this posture, and came to him much moved to see him in so sad a plight; and though he knew his errand, gave him not one angry word, never upbraided him with the Sawciness and Rebellion of those for whom he came to intercede; but began a grave Expostulation, wherein he related how kind he had been to the City since his first coming to the Government, and then demanded if he deserved such a requital, and what ill turn it was he had done them, for which they had designed him such a Reward? Whatever it was they might have revenged it upon the living; but that would not satisfy them, except their Indignation extended it self also to the dead. He ended with a protestation, that he had esteemed *Antioch* above all other Cities; that it was more valuable in his Thoughts than his own Country; that he had desired to see it above all things, and all those that conversed with him were sufficient witnesses of his Vow. At this *Flavianus* fetching a deep sigh, and pouring forth plenty of Tears, replied, that they could not but be sensible how much he had respected their City, and that therefore the greater was their Ingratitude and Guilt; insomuch that though he burnt or demolished it, and put them all to the Sword, yet he could not inflict a Punishment so great as they deserved; and whatever he could do, this would still remain as their greatest plague, that they had been ingratul to their Benefactor; and should be condemned as an Instance of Ingratitude, by Posterity. For had their City been broken open by Barbarians,

and

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But use
great Arguments
to induce him to
pardon it.

and the Inhabitants thereof carried away Captive, they could still have been comforted by this consideration, that he being alive, and bearing them so much good Will, would amend what was amiss, and restore the place to as great a Lustre as formerly. But now what hope was remaining, that after such a misfortune such a Deliverance would come, he from whom they were to expect it, being disoblige'd? To whom now could they betake themselves? what Refuge could be remaining in such a Case? But however, if his Majesty pleased, there would not be wanting a Medicine for this Discase. For amongst private Men great quarrels and fallings out often procure as great Acts of Charity and Friendship. When God had made Man and placed him in his Paradise, the Devil envying his happiness tempted him to disobedience, and thereby cast him from this Station; but God not only not forsook him, but, instead of Paradise, opened Heaven unto us thereby, both demonstrating his own goodness, and inflicting on the Devil greater Punishment.

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47. He advis'd the Emperour herein to imitate his Maker. For the Devils had left no stone unturned, to bring into Disgrace with him, that City which of all others he most loved. He pray'd him that though he did punish the Crime, yet that he would not exclude the Citizens from his favour even in Consideration hereof; but, to be revenged upon these their Enemies, rather write *Antioch* amongst the chief of those he respected. If he overthrew or destroyed it, he should do what they aimed at; but if he would remit his displeasure and restore it to his former favour, he would do them the greatest displeasure imaginable, thereby shewing that they not only profited nothing by their Plot, but every thing happened quite contrary to what they propos'd to themselves. And herein he would be just, in shewing Mercy to that City which the Devils envied, because of his Friendship. For if he had not so much loved it, they would not have so much hated it; so that though Strange, yet it was true, that it had undergone this Calamity for his sake. How much more bitter than all Turnings and Subversions were those words he utter'd, that he had by this Fact being more affronted than had any of his Predecessors? But he pray'd him out of his Goodness and Wisdom to consider that this Affront that was offer'd him, would afford him a Crown more Noble, and of greater value than the Diadem he wore. His Diadem indeed was a Token of his Virtue, and of the Liberality of Almighty God. But the Crown woven out of this his Compassion and Mercy, would be his alone, and the reward of his Wisdom. And all the world would more admire him for his Conquest over his Passion, than for the glistering pretious stones he wore on his Head; Though they had demolished his Statues, yet if he forgave the Demolishers, and would not take the Revenge of them that he design'd, he would have as many Statues Erected him as there were at present, and would be Men in the world. For Posterity would hear of this his Clemency, and for it would both admire and love his Memory. And that what he said was not out of Flattery, but true, and upright dealing, he would show by discovering to him from a passage of former times, that neither Armies nor Arms, Money nor multitudes of Subjects, nor any other thing could render Princes so Illustrious, as Clemency, and the Discipline of the Mind, in bringing it into Subjection unto Reason.

48. There's a Story, saith he, suitable to this occasion, of *Constantine* of blessed Memory, his Statue being defaced; for which he was vehemently moved by some Flatterers to take Revenge. As a Motive to it, they told him, that his Face was grievously battered; at which words, he felt his Face with his Hand and smiling replied, that he could feel no wound he had received, but that his Face and Head were sound and unbroken. This put the Flatterers to silence, but the Saying he used hath since that been ever spoken of, neither will it hastily be forgotten. Now was not this Conquest more noble than the many Trophies he erected? That Prince built many Cities, and was Conquerour of Multitudes of Barbarians, yet of these things nothing is remembred; but this Speech of his, is in every ones Mouth, which by all Posterity will be recorded. Now if for it he obtained so great Fame amongst Men, how shall Almighty God, the bountiful rewarder of all good works, Crown his Clemency? But what need is there, saith he, that I should instance in *Constantine* or any others, when the Case requires, that I put you in mind of your own good Deeds? Call to mind what formerly you have done; how in this Fast of Lent before *Easter*, you sent out your Letters through the world, whereby was injoyned, that Prisoners should be pardoned, and set at Liberty; and this not sufficiently expressing your humanity, you used these words, in the said Letters:

Sect. 4. Letters: *I wish I could restore those already dead to Life.* Remember these words; A.D. 387.
 for now you have your wished for opportunity of calling the Dead to Life again; the Citizens of *Antioch* being already dead before Condemned, the City lying now upon the Brink of the Grave; therefore now restore it, as you may do without money, without Charge, without expence either of time or Labour. One word from your Mouth will do it; and the poor Town will acknowledge it self more indebted to you than it's Founder, and that with Reason. For he only gave a beginning to it and so desisted; but you will restore to its grandure a great and mighty City destroyed and brought to as bad as nothing, after a great time of tranquillity and Repose. It would have been no such great exploit, if being taken by the Enemy, you had rescued it out of their hands, as now it will be generous to pardon it. For many Princes have done as much as that can amount to; but this will be your Atchievement alone, and work beyond expectation. It's a thing so far distant from wonder, that it's practis'd every day, that Princes do good unto their Subjects; but that one who had suffered such Affronts should put them up and forget them, this exceeds the strength of humane Nature. Consider that now as to the matter in hand, you do not only consult about the state of one City, but concerning your own glory, nay of Christianity it self. For now the Eyes of *Jews* and *Greeks*, and *Barbarians*, who have also been acquainted with what hath happened, are upon you, and expect what Sentence you will pass upon the Offenders. If it be milde and gentle, all will commend it, praise God for it, and say; *Of what great power is Christian Religion, which is able to restrain a Man that has no equal upon Earth, who has power to punish and destroy at his pleasure, and hath taught him such Philosophy as no private person would practise the like. Certainly great is the God of Christians, who of men makes Angels, and such as are above all natural Necessities.*

49. Neither let that vain and groundless Fear possess you, into which some perhaps would have you cast, as if sparing this City would make others confident and refractory, and your Government to sit too uneasy upon your shoulders. Indeed had you been in no Capacity to punish, and that these Rioters had contended and got the better of you, then might you have entertained such a Suspicion. But for as much as they are astonished, already half dead, in me their Deputy lye now prostrate at your Feet, expect nothing but destruction, and place all their Refuge in Almighty God, whom they cease not continually to invoke to prosper my Journey; in a word behave themselves no otherwise than those that are at the point of Death, how causeless and superfluous is this fear? Had they presently been ordered to be put to death, they had not suffered so much as now they endure, living so many days in Fear and Trembling; when Night comes, they expect never more to see the Day, and when Day comes, they do not hope to reach the Evening. Many by seeking to escape the Danger in the Mountains, have fallen into the Jaws of wilde Beasts; not only Men, but little Children and Women, both Beautiful and well born, lye lurking in Caves and Dens, much more proper for other sorts of Animals. A new sort of Captivity hath seized the City. The Buildings and the Walls do stand, and yet, they suffer more than if Fire had destroyed their Houses. Though there be no Enemy, no Barbarians appearing, yet they are more dispersed than those that shun Captivity, and worse disposed of than such as are taken Prisoners. If a Leaf of a Tree do but wag, they are thereby scared and terrified all the Day: Prolong not therefore their Miseries, but give them some time to take Breath. It's easie to awe and affright, but to procure ones self Friends and Lovers, such as will be quiet, obedient and heartily pray for ones prosperity, it's very difficult. This is the way to effect it. You might be at infinite expence, and raise innumerable Armies, and yet by all your Endeavours not be able to purchase or procure so much hearty affection, as by this Course, both from them that you oblige, and others that shall heare how you have obliged them. And if you have such Returns from Men, how much will God himself reward you, not only for what you do at present; but as this Example will operate in future Ages? For if such a Riot as this shall happen (which God forbid) and those that are injured, shall give way to their Passion and Revenge, how will they Blush and be confounded, when they reflect upon this Act of Self-denial? Hereby you will make your self an Instructor to Posterity, and will herein excel them, though they arrive at the highest pitch of Philosophy. For it's one thing first to begin and set such a Copy; and another, only to imitate or write after it.

24. 50. Whosoever therefore for the time to come, shall give any Instances of A.D. 387.
 Clemency and good Nature, you will be partaker with them of the Reward: And for the present none can partake with you. If no such person there shall be; yet will all Generations Conspire to reverence your Memory, when they consider how at such time as a great City lying under Guilt, and obnoxious to Punishment, when thereat all Persons were affrighted and astonished; when the greatest Captains, Officers and Judges stood amazed, and out of horror durst not offer one word in its behalf; one poor old Man, God Almighty his Priest, should by his looks and Access move the Emperor to respect, and that the Prince should grant that to this Old man, which he would not yield to any of those about him, out of reverence to the Laws of God. And truly in this point the Citizens have shown their Duty to you, and how much they honour you, in that they have made me their Messenger, having this Opinion of you, that you Reverence the Priests of God, though all men be subject unto you, and the Priests considered in themselves are mean, and have nothing to recommend them. But I pretend not only to come from them, but am sent by the Common Lord of all Messengers (Angels) to declare thus much to your most milde and gentle Soul, that if you forgive men their Trespases, then will your Heavenly Father forgive you yours. Remember then that day wherein we shall give an account of our Actions. Consider with your self, that by this Act of Charity you will cover a multitude of Sins. Other Messengers bring Gold and Silver, and other Gifts with them: I only have brought with me the Holy Scriptures, pretend to make no other Presents, but therewith beseech you to imitate your own Lord and Master, who being every day injured by us yet ceases not to give us all good things. Do not defeat our Expectations, nor make null our Promises. If so be you will be reconciled, if you will receive the City unto your former grace and favour, and put away your displeasure, I shall then return with great Alacrity and Comfort. But if you preserve your Indignation against it, I will not only not go thither, but renounce it for the time to come; and fix my Habitation at some other place. For I will never own that for my Country or Home, with which you, who are the most merciful and good natur'd of all Men, refuse to be reconciled.

51. *Flavianus* having spoken to this Purpose, it fared with the Emperour as of old time with *Joseph*, whose Eyes were big with Tears; but he refrained himself because of the By-standers. He only spake one word (*Chrysostome* still tells us) but this word was such, as more became and adorned him, than his Diadem, viz. *What great or admirable matter is it, if we who are contumeliously used, forgive those Men who so treat us, we being Men our selves? when the Lord of the world, descending from Heaven, made a servant for our sakes, and Crucified by those who received benefit by him, prayed to his Father for his Crucifiers, saying, Forgive them, for they know not what they do. What a wonderful thing is it then, if we forgive our fellow-Servants?* And that these were not feigned words, the sequel shewed; for the Bishop intending to stay and Celebrate with him the approaching Feast of *Easter*, he compelled him to haste away and show himself to his People. I know saith he, how disturbed they are now in their minds, and that yet there are many remainders of this Calamity; go and comfort them. If they see once the Pilot they will forget the Tempest. The Bishop desired that he would send his Son; but He willing to show that he was absolutely reconciled, bade them pray, that those obstacles might be removed, these wars extinguished, and he would come himself without fail. Now, saith the Relator, what can be more calm and serene than this Soul? For the time to come, let the *Pagans* be confounded, or rather, not so, but let them be instructed, and leaving their Error, betake themselves to Christianity so fruitful in virtue, being taught our Philosophy by an Emperour and a Bishop. But as for the Emperor, he contented not himself with sending the Bishop away, but when he was gone out of Town, and had crossed the Sea, he sent after him for fear he should loiter, and defraud thereby the City of half of their Joy, by keeping of *Easter* in another place. The Bishop, as some greedy of praise would have done, did not neglect to send away the Joyful News till he himself should bring it, but for that he travelled more slowly, dispatched away one by Post, with Notice of their deliverance, lest by reason of the slowness of his Return, their Sorrow should be continued. For he had no Design that he might bring the Tidings, but that the City might take breath again as

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soon as might be, and this they improved to all expressions of Joy, kindling “ of Lights, and placing Beds before the Houses (as was wont to be practised in “ Feasts, when some extraordinary good thing had hapened) so that *Antioch* seem- “ ed to Celebrate the Feast of a new and late Nativity: And to increase their “ Joy, their Bishop with the Pardon came timely enough to Celebrate *Easter* “ with them; which *Chrysostome* in another Sermon laboured to make them sensible of, as a transcendent Favour of Almighty God, in restoring the Head to the Body, the Pastor to his Flock, the Master to his Scholars, the Captain to his Soldiers, and the Bishop unto his Priests.

52. This is the Relation made by *Chrysostome* concerning the Tumult at *Antioch*, the danger the City was in, and the manner of procuring Pardon and Indemnity; which being his Account he gave to the Citizens presently after the thing happened; and there being opportunity enough of knowing the truth or falsity thereof, and the most material passages being notoriously known; as of the Hermites their coming down, the Message undertaken by *Flavianus*; his sending a Post before him with News of the Pardon, and his bringing with him the Act of Grace it self, and the like; No indifferent Person can question the Veracity of that truly golden mouthed Orator, of whom it may justly be said; that whereas some are words without matter; others are matter without words, most neither words nor matter; he was one of those few who were both matter and words together. This renders unlikely what *Sozomen* writes, that *Flavianus* perswaded the Boys that sung at the Emperors Table, to put into their Songs those Sayings which were in the Petitions of the *Antiochians*, and that *Theodosius* thereupon touched with a sense of their misery, ceased any more to be angry with them. But whereas *Baronius* will have *Libanius* to have been dead long before this time, it was because he was unacquainted with his Writings, wherein mention is made of this tumult of the *Antiochians*, particularly two Orations to *Theodosius* upon this occasion. And whereas he placeth it in the same year that *Theodosius* undertook the Expedition against the Usurper *Maximus*; others with more reason fix it in the year preceding, or that whereof we now write. For, first it happened at such time as *Theodosius* resided at *Constantinople*, as several Passages testify; and the year following, he was at *Theffalonica*, as appears by several Laws. Then it hapned after the Conquest of the *Barbarians*, or *Grothingi*, or rather when some few Sparks of that Invasion were still remaining, or feared to be still lurking; and after the death of *Flaccilla*; in Winter-time, before *Lent*, which was not utterly expired when the Bishop brought them their Pardon. Indeed that *Theodosius* was now preparing against *Maximus* is very probable, not being ignorant of what Designs the Tyrant had in his Head. For towards the later end of this very year he brake into *Italy*, and frighted away *Valentinian*, who fled with *Justina* his Mother, and his Sister *Galla*, to *Theodosius* into *Illyricum*, and made his Abode at *Theffalonica*, whither *Theodosius* removed to him.

Vide Chron.
Historic. &
Theod.Maximus
thinks of
invading Italy.

53. For *Maximus* (as *Zosimus* hath it) not thinking he had yet got enough, or that matters had fully succeeded as he thought was suitable to his Worth and Dignity, while he only Reigned over those Nations which had formerly obeyed *Gratian*; resolved if he could, to remove *Valentinian* also out of the way, and get all his share; at least so much of it as he could come by. Overpowered by these thoughts he prepared for passing the *Alps* into *Italy*; but when he perceived that his way must lye over such steep and craggy Hills, and beyond them over Lakes and Meeres, and thereby his March be rendered very slow, with so great Forces as he purposed to take along with him, he cooled in his heat, and took more time to consider of it. *Valentinian* now from *Aquileia* sent his Ambassadors to treat of a better grounded and firmer Peace betwixt them, and to the conditions thereof *Maximus* seemed very willing to submit. This so well succeeding, *Valentinian* sent away one *Domnius* a *Syrian*, a Person of very good Note, and one so familiar with him, that he imparted to him his most secret Affairs, whom *Maximus* received, and courted to a very high Degree; and after the Delivery of his Message presented him so highly, that he imagined his Master could have no better Friend. Nay, he was at so much pains and Charge to deceive him, that he committed part of his Army into his Hands, as for the Emperor's Use, to be employed by him against the *Barbarians* that infested *Pannonia*; which, as it made *Domnius* depart in a very joyful humour; so by passing the *Alps* the nearest and safest way back into *Italy*, he thereby discovered it to *Maximus*, who expecting the same, and being prepared for a March, followed him with

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with all his Forces, sending some Scouts before him, who should intercept all persons whatsoever that might carry News of his Approach. And this was easily enough effected, for such as called these precipitous places could not be hid. When therefore he had the way clearly discovered by *Domninus* his passing below in the same Tract, both over the Mountainous and Fenny places, there being no Enemy to oppose him, he easily got over into *Italy*, and none interposing, led his Army towards *Aquileia*. *Valentinian* with so sudden a thing surprised, seemed to cast away all Hope; and his Ministers feared that *Maximus* would get him alive into his power. Therefore he presently took Ship, and sailed to *Theffalonica*, having with him in his Company his Mother *Justina*; who had been formerly the Wife of *Magnentius*, and after his death being very beautiful, Married to the Emperour *Valentinian*; and she took along with her, her Daughter *Galla*. Being arrived at *Theffalonica*, they sent to *Theodosius* to intreat him that now at last he would revenge the insolent Injuries offered to all the Family of *Valentinian*.

54. Thus much *Zosimus* writes concerning the expedition of *Maximus*, and the care that *Valentinian* and those about him had to prevent that Invasion which they had so much reason to apprehend. But whereas he mentions their sending Ambassadors before *Domninus*, he either knew not, or would not mention the Embassy of *Ambrose* Bishop of *Milan*; whom, though *Justina* an *Arian* in Religion had much persecuted and termed a Tyrant, yet now she had recourse to him, knowing what success his first message had, when sent to allay the fury of the Usurper, the same year that he Murdered *Gratian*. He readily undertook the Employment for preventing such mischief as was like to follow, and, as in an Epistle, wherein he gives to the Emperour an Account of his Negotiation, he writes, the day after his Arrival at *Triers*, in order to his Address went to the Palace. There came forth to him an Eunuch and a Gall by Nation, the *Præpositus Cubiculî*; who when he demanded Audience, asked him if he had brought any Letters from the Emperour. He told him he had; to which he replied, that he could not be heard but in Consistory. *Ambrose* said, that Priests were not wont to be so received, and that he had something in Charge which he would gladly deliver to his Master alone: Hereupon he went in to him, but returned with the same answer that his former might be believed to be true. *Ambrose* said, that those of his Function were not wont to be so treated; yet notwithstanding he would condescend to any thing that should conduce to the discharge of his Trust, to the service of him that sent him, and to the restoring of Brotherly love. *Maximus* hereupon sitting in Consistory, *Ambrose* was introduced; to whom he arose that he might give him the kiss. But he without stepping forward stood amongst the *Consistorians*, who bad him go up, and *Maximus* himself called to him: But instead of going, he asked him why he would offer to kiss him, whom he would not own; for had he owned him for a Person of his Condition, he would not have received him in that place. Hereat saith he, Bishop are you moved? Not, replied he, with the Injury; but with shame, that I stand in a place not proper to my Function; But quoth *Maximus*, in your former Embassy you came into the Consistory. That was not my fault, he returned, but his that sent for me. He asked him why he would then come in; and he replied, that then he came to ask Peace in behalf of an Inferiour; but now of an Equal. Who may he thank for that saith *Maximus*? Almighty God, saith *Ambrose*, who hath preserved to *Valentinian* that Kingdom which he gave him.

55. At length the Tyrant broke out into Choler, and told him he had overreached him as that fellow *Bauto* did, who under the pretence of serving the Interest of the Boy, designed to set up for himself, and sent upon him the *Barbarians*; as if, saith he, I could not bring sufficient Numbers of them into the Field, of whom so many Thousands serve under me, and receive my Pay. But at what time you came to me, and held me back; who was there that could have withstood me or my Power? *Ambrose* mildly answered, that there was no cause why he should be angry, and desired him to hear what Return he could make. He acknowledged that therefore he was now come, because in his former Embassy when he credited him, he said he was deceived. For, this that he had done in behalf of the young Emperour, he no otherwise could look upon, but as tending to his own Reputation. For, whom saith he, ought Bishops to defend more than the Fatherless? "It being written, Judge the Fatherless, and plead for the Widdow; and again, the Judges of Widdows and Fathers of Orphans; yet will not I up-"

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braid *Valentinian* with what I did for him. To speak the truth, how did I so withstand you, that you could not pass into *Italy*? What Rocks did I cast in your way? What Forces or Armies did I oppose? Or did I stop up the passages in the *Alps* with my Body? I wish I could say so; I would not fear your Accusations, or Reproaches. With what promises did I abuse you, to draw you into a Peace? Did not you send Count *Victor* to me near unto *Moguntiacum* in *Gall* to ask it? Wherein therefore did *Valentinian* deceive you, whom first you your self asked the question? wherein did *Bauto*, who but served his Prince? Was it because he did not betray his Master? How did I circumvent you, who at my first coming, when you demanded why *Valentinian* did not come to you as a Son to his Father; made Answer, that it was not to be imagined that a Child in the sharp season of winter should travel with his Mother over the *Alps*, and without his Mother it was not fit he should be put upon such a Journey, especially things standing so doubtfully as they did. I told you that we came to treat of Peace, and had no Commission to meddle with his Coming, which therefore I could not engage for: To this you returned, Let us stay then and see what Answer *Victor* brings, who while I was retained with you, went to *Milan*, and received a denial to what he propounded: they agreed there to treat of Peace not of the Emperours Coming, who by no means was to be removed. I was with you when *Victor* came back; How then did I put a stop to the Coming of *Valentinian*?

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56. The Ambassadors, sent again into *Gall* to declare he should not come found me in that Country; and in my Return, I met with Soldiers of both Parties set to the Custody of the Passages. What Armies of yours did I recall? What Troops did I draw back from *Italy*? or what Barbarians did Count *Bauto* send? And what great matter had it been if he had so done, when you threatened the Roman Empire with the Auxiliaries of the Barbarians, and Troops that came from beyond the Borders, whom the Province maintained; especially he being born in the Parts beyond the *Rhine*? But consider what difference there was betwixt your threatening humour, and the mildness of *Valentinian* the young Emperor. You required, that with an Army of Barbarians you might fall into *Italy*. He diverted the *Huns* and *Alans* as they were falling into *Gall*, and drew them back through the Coasts of the *Alamans*. What great matter was it if *Bauto* engaged Barbarians against such as themselves? For while you seize upon the Roman Forces, and he on both sides is to look to himself, the *Juthungi* within the Bowels of the Empire waste *Rhetia*, and therefore against the *Juthungus* the *Hunn* was to be expected. Yet because he was troublesome to *Alamannia*, and began to indanger *Gall*, he was constrained to quit his Triumphs, that you might have no apprehension of Fear. Compare now the Actions of both together. You are he that caused *Rhetia* to be harassed. And *Valentinian* with his own Gold purchased you Peace and Security. Behold him there that stands at your right Hand, whom *Valentinian*, when he might easily have vented his Sorrow and Indignation upon him, yet sent back to you with respect. He had him then in his own Dominions, and even when the Message of his Brothers death was brought him, restrained himself; neither did he return to you the like; or revenge himself upon him, who was far from being of the same Dignity with his Brother, but stands in the same relation unto you. Be you now Judge your self, betwixt you both. He sent you your Brother back alive: It were to be wished you would restore to him the dead Body of his dear Relation. Why do you deny this to him, who did not deny to send you Succours against himself? But you are afraid that if you send the Body; at the sight thereof the Souldiers may fall into passion: for this you allege. Do you think that him, whom yet living they deserted, they would now defend, when he is slain? Why do you fear him that's dead, whom you slew when you might have preserved him? You say you slew your Enemy. No. He was none of your Enemy; but you were his. He is not now sensible of any Defence to be made for him: make the Case fully your own. If any one should now rise up against your self and usurp; I pray, whether would you call your self his Enemy, or him yours? I am mistaken, if it be not the Usurper that makes War, and the Emperor that defends himself. Do you then refuse to give up the dead body of him you ought not to have slain? Let *Valentinian* the Emperor have the Remains of his Brother, which may abide as Hostages of Peace betwixt him and you, and of our security. How could you pretend that you gave no order to kill him.

whom

Sect. 4. whom you forbid to be buried? Will any believe that you did not envy him " *A.D.*
 his life, to whom you grudge the benefit of a Sepulchre? 387.

57. But I will swear. I hear you complain that those who are with *Valen-*
 tinian the Emperor, have rather betaken themselves to the Emperor *Theodosius*,
 than to you. Could you expect it should happen otherwise, when you sought to
 get them into your Hands to destroy them, whereas *Theodosius* enriched them with
 Presents, and preferred them? *Heret*, saith he, whom have I killed? *Ambrose* an-
 swered, *Balia*; and him that was so worthy a Person, so great a Souldier. Was
 this a just Excuse for putting him death, because he was faithful to his Prince?
 He replied, I did not command him to be put to death. *Ambrose* added, but
 we heard you did; and to this he confessed, that if he had not killed himself he
 had ordered him to be carried to *Calistum*, and there to be burnt alive. This was
 then the Reason, said the Bishop, why it was believed that you slew him. But
 who can promise any security to himself, when so valiant a Warrior, so faithful a
 Souldier, so useful a *Comes* must be put to death? In conclusion, at parting, *Max-*
 imus pretended that he would treat. But afterward when he found that *Ambrose*
 abstained from Communion with these Bishops, that had joined with him, and
 who had been for putting to death certain Hereticks (*Priscillianists*, he means) being
 incensed by them he commanded him forthwith to be gone. And he very willing-
 ly complied with him herein, though most men believed that he could not
 escape those that would be sent to intrap him; and he began his journey, only
 sorrowful to find that *Hyginus* an aged Bishop was sent into Exile, when he had
 nothing at all left him but his miserable life. He took the pains to go to the Of-
 ficers of the Tyrant, and to intreat for him, that an old man might not be hur-
 ried away without any Cloaths or so much as a Pillow to lye on; but while I
 interceded for him, saith he, I was hurried away my self. This is the Account
 of mine Embassy. Emperor farewell and secure your self more strongly against a
 man, who endeavours to cover and conceal an intended War under the specious vi-
 zard of a Peace. Thus much *Ambrose* himself declares concerning what passed be-
 twixt the Tyrant and him, and it's very remarkable for several circumstances,
 which else never would have been made known.

58. His Advice to *Valentinian* at the close of his Relation was good, if he had
 had the happiness to follow it; but instead of that, thinking by fair words to
 persuade him, he sent, it seems, *Domitianus* to him, who being deceived by his
 hypocritical carriage became a Leader or Director of his Forces into *Italy*; and
 thereupon followed the flight of *Valentinian*, and his Relations to *Theffalonica*.
 Thence when *Theodosius* had received their message, *Zosimus* tells you that he was
 amazed at the News, began a little to forget his extravagant Luxury, and remit
 something of his senseless prosecution of Voluptuousness. A Council being held, it
 was resolved that he and certain of the Senate should remove to *Theffalonica*,
 which being done, upon a new Consultation it was agreed, that the Villanies of
 Maximus should be punished. For by no means that man was to be spared any
 longer who had murdered *Gratian*, usurped his Authority, and proceeding in such
 courses had now deprived his Brother of that Dominion, which had been left
 him. *Theodosius* with these things was offended; but by reason of his natural
 Effeminacy, and that Sluggishness which he had all his life-time been guilty of, was
 slow in his preparations for the War, alleaging those mischiefs which are wont to
 happen in civil Broils, and shewing that whatever the Success should prove, yet the
 Commonwealth thereby must grievously suffer. He said, that *Maximus* was first
 to be sent to; and if he could be prevailed with to restore the Empire to *Valen-*
 tinian, and imbrace Quiet and Repose, then was the Empire to be divided amongst
 them all, after the antient manner; but in case he refused, and was governed by
 his rapacious Appetite, the War was to be prosecuted without delay. And of the
 Senators none there was that durst move any thing in opposition to what he said.
 But *Justina*, being an experienced woman in the Affairs of the World, and saga-
 cious enough in what concerned her Interest, knowing sufficiently how *Theodosius*
 was addicted to love-matters, brought *Galla* her beautiful Daughter before him,
 and falling at his feet, humbly besought him not to suffer to pass unrevenge'd the
 death of *Gratian*, who had conferred the Imperial Dignity upon him, nor suffer
 her and her Children to lye destitute and forlorn in this sad Condition. With
 that she produces her Daughter weeping earnestly and bewailing her fortune. By
 these Sights *Theodosius* could not but be exceedingly moved; especially at the Beauty
 of the Girl, and he sufficiently betrayed his inward Thoughts; yet did he defer
 what

Maximus
 commanded *him*
 to be gone.

Theodosius re-
 moves to *Theff-*
 alonica.

P. 768.

Sect. 4. what was to be done, and put them off at the present with this Answer, that they should be of good courage. But his love increasing every day more and more towards the Lady, he had a conference with *Justina*, and desired her Daughter in Marriage, *Placidia* or *Flaccilla* (for so the Romans called her) his first Wife being already dead. She granted his Request, but upon no other terms, than that he should make War against *Maximus*, reverse the Death of *Gratian*, and restore to *Valentinian* the Empire which had descended to him from his Father. He accepted of the Conditions; thereby obtained *Galla* for his Wife, and for himself all manner of ways to provide for the War.

Prepares for War.

59. So passed over this year; and the following, being the CCCLXXXVIII. of our Lord, had for Consuls *Theodosius Augustus* the second time, and *Cynegius*: it was the first Indiction, and the thirteenth year of *Valentinian*. *Theodosius* having left his Son *Arcadius* at *Constantinople*, was come (as we said) to *Thessalonica*. Now *Zosimus* further acquaints you, that, being thereto moved by the Woman, he procured the good affections of the Souldiers, by increasing their Pay; and now being taught by experience, he so far corrected his former sloth, that he fell upon the practice of some things, which, after his departure, would have great influence into his Affairs. *Cynegius* his *Prefectus Pretorio*, dying in his Journey from *Egypt*, when he considered whom to put in his place, and had thought upon divers Persons, at length he found a man fit for this Charge, one *Tatianus*, whom he sent for from *Aquileia*, a Person in all respects, of singular virtue: and having ordered him the Ensigns of Magistracy, he made his Son *Proculus* also *Prator* of the City. In this matter *Zosimus* is so extravagant as to commend him, saying, he did well in bestowing these places upon such Persons as would in his Absence sufficiently provide for the good of the Subject. The Command of his Foot he gave to *Proculus*; and that of the Horse to *Timastus*; and when now all things seemed ready for the expedition, a rumour was brought that the *Barbarians*, in conjunction with the *Roman* Legions, by great promises were urged by *Maximus* to revolt. But so timely knowledge he had of it, that they having notice of his Intelligence, betook themselves into the Fens and Lakes in *Macedonia*, and hid themselves in the Fortresses thereof. Yet were some sent to hunt them out, who by one means or other brought them to destruction for the most part; so that the Emperor delivered from his Fears as to this matter, set himself for his expedition. Before we bring him from *Thessalonica*, it will not be amiss to relate how the Laws confirm what the general consent of Historians affirms concerning his removal to this City. By several Subscriptions we find him there this year in the Months of *March* and *April*, at what time, while his Armies were bringing into Order, he enacted something for reformation of Abuses in Ecclesiastical and Civil matters. He received information of the cruel practices of the greater sort of Citizens of *Alexandria*, who being naturally very prone to raise Seditions and tumults, were also tyrannical towards their Neighbours, if inferiors to them, so as they would often apprehend and even dare to keep them Prisoners without any Authority intervening. Now, for as much as the Right of having a Prison is a Royalty not lightly communicable to other persons, *Theodosius* declares, that whoever for the time to come shall detain any accused person in a private Prison, shall be guilty of no less than the crime of Treason.

60. He committed *Justina*, with her Son and Daughter, to such as should safely convey them to *Rome*, being verily perswaded that the *Romans*, who hated *Maximus*, would gladly receive them; resolving himself, through the upper *Pannonia* and the *Appennine* Mountains to march for *Aquileia*, and fall upon the secure and heedless Enemy. So writes *Zosimus*, and accordingly by certain Records we find him at *Stoba* and *Scupe*, places of *Macedonia*, in the month of *June*. At the later, he received a complaint how the *Curiales* of several Towns or *Municipations* in *Bithynia*, had by running away withdrawn themselves from these services which were due from them to the Courts, particularly those of *Claudiopolis*, *Prusias*, *Tottaium* and *Voris*. He commands that by Edicts they be cited to return to their several Habitations and Charges: and in case of default, he enjoyns *Tatianus*, who by this time had succeeded *Cynegius* in the Prefectship of the East, that out of other fit and convenient Bodies, and especially out of the number of his Officials or Apparitors, who had well discharged their Offices, fit Persons should be chosen and put not only into the Places, but also Estates of these Fugitives, who undergoing their punishments should also, the better to bear them, enjoy their Patrimonies, of which the former owners should forever be deprived.

He makes towards Aquileia.

A.D.
387.

A.D.
388.

Theod.
Aug. 2. C
Cynegio
Cos.

L. Un. de pri
vati Carceris
custodia. Cod.
Th. lib. 9. tit
11. Dat. Cyn
egio prid. Kal.
Maii. Abell.
Cod. Just.

L. 119. de
Decurionibus
Cod. Th. Dat.
11. Kal. Scu
pia. Abell. d
Cod. Just. ut
pote tempora
ria & locali.

being made incapable of returning. Of these places of *Bithynia* the two former, *viz.* *Claudiopolis* and *Prusis* (formerly known by the name of *Cius*) were *Towns*; and the two later, *viz.* *Tottaium* and *Voris* were *Mansions*, the first having been but a *Mutation* in the days of *Constantine* and *Constantius*; but afterwards altered to a *Mansion*, as appears by the *Itinerary Tables*. Hence it sufficiently appears, that there were *Centiles* or *Deturiones*, as we formerly hinted, not only in *Cities* and *Towns* but also in the greater *Mansions*, such as this *Tottaium* was: in like manner as in the greater sort of *Mansions* some Bishops had their Seats, as in the Council of *Chalcedon*; mention is made of *Helpidius*, Bishop of the *Mansion*, called *Termensis*. Not this Edict alone being directed to *Tattianus*; but five more concerning this Subject of Corporations; and several Epistles being also written to him by *Libanius*; from all of these it appears, that he was much inclined to favour the common Interests of the *Curia*.

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61. But, to prosecute the Expedition of *Theodosius*. He, as we said, resolved to pass the upper *Pannonia*, and the *Appennines* towards *Aquileia*. *Maximus* as soon as he could understand that *Justina* and her Children designed to cross the *Ionian* Gulf, sent, to intercept her, if possible, *Andragathius* with some Pinnaces, or other light Vessels; who, though he used his utmost Endeavour to send these persons after *Gratian*, yet missed his Purpose, they having got over before his arrival; which perceiving, he strengthened himself with the accession of many Ships, believing *Theodosius* intended to make War by conveying his Forces over the Sea. But he prosecuted his Journey towards *Pannonia* and the Straights of the *Appennines*, fell upon *Maximus* his men, when they least of all expected it, and were sufficiently secure as to their condition, as they imagined. For after the Tyrant had seized on *Aquileia*, not only all *Italy* but *Africk* also fell off to him, *Sigonius* well observing that our *Gildas* writes how he extended one of his Wings to *Spain* and the other to *Italy*; and setting the Throne of his Dominion at *Triers*, raged with so great madriess, that one of the Emperors he expelled from *Rome*, and another out of the World it self. But of all other *Italians*, those of *Bononia* testified most their Respect to, or their Fear of, him, erecting a Pillar, which in *Sigonius*'s time, was still to be seen at the distance of a mile from the City, whereon was this Inscription, *To our great Lords, C. Maximus and Fl. Victor, Pious, Happy, always Augusti, born for the good of the Commonwealth*. Having secured, as he thought, *Italy* and *Africk* he set himself wholly to scrape up moneys for the as right maintenance of what he had so justly got. But hearing of *Theodosius* his preparations, or suspecting them, some say he passed over the *Julian Alps* into *Pannonia*, and having taken and fortified *Petovio*, proceeded to the River *Savus*, where he seized on *Sciscida* and there sat down. *Theodosius* having notice that there he had seated himself, hastened through *Macedonia*, and incamping upon the *Savus*, when he saw a fit opportunity passed the River, and offered him Battel, which he refused not to accept, but came out of the Town. *Theodosius* his men received him so warmly, and fought with such courage, that his Souldiers would not stand before them, but fled, of whom such as ran to *Sciscia*, either filled the Ditches with their dead Bodies, or ran upon the sharp Stakes set upon the Walls, or stopped up with their Carcasses the Gates which they had opened at their breaking forth: as for such of them as the greatness of the River intercepted, they trembling and imbracing one another, cast themselves from the Precipices into the water, and there perished; amongst whom was the Standard-bearer of the Expedition, whose body could not be found.

Zosimus p. 770.
Dr Occid. Imperio. lib. 9. p. 206.its Maximus
& Sciscia.his Brother
Marcellinus
& Petovio.

62. *Theodosius* having obtained this Victory, removed to *Petovio*, where *Marcellinus* the Brother of *Maximus*, opposed himself against him. He put his men into order of Battel; yet the day being far spent, thought not fit then to set upon him, but in the morning following he gave him Battel, and that with no worse Success than formerly. For, the Enemy was put to flight, such as escaped the Sword, taking into the adjoining Woods, under the coverture of the Night. Many came with their Colours, and casting them and themselves at the Feet of the Emperor begged Pardon, whom he kindly received. But, *Maximus* thus twice defeated betook himself to his Heels, and with great speed came to *Aquileia*, whom *Theodosius* followed well nigh with as much haste. *Hemona* the first City at the root of the *Alps*, as one enters *Italy*, yielded to him; the Inhabitants thereof issuing forth to meet him in a Triumphant manner, for being delivered by his presence from the Seige, which *Maximus* had laid unto them. They came out Dancing, and with Musick of several sorts. The Nobility or Chief of the Town appeared before the Gates, the Senators in their Habit, the Flamines in their Municipal Purple, the Priests in their Caps; the Gates were set with Garlands, the

Pacatus in
Panegyric. c.
37.

Streets

Scct. 4. Streets adorned with the choicest Hangings, and the light of the day was increased by the Fires that were kindled, so that *Theodosius* seemed already to triumph, before he had compleated the War. But being intent upon this, he followed *Maximus*, so close at the Heels, that by a great and sore March, he reached *Aquileia* in one day, and as soon as there arrived laid seige to the City. *Maximus* perceiving how unable he was to endure the shock, despaired of making resistance, and in a manner seemed to quit that power which he had so Tyrannically usurped; which his men perceiving, to provide for themselves before the taking of the place, they laid Hands on him as he was distributing Money amongst them, and being despoiled of the Imperial Ornaments, led him bound to *Theodosius*. He when he saw him, demanded with what confidence he could enter upon the Civil War, to which he answered, that he pretended he had his consent and favour in his Usurpation; for except he had feigned himself advised thereto by him, he could never have drawn the Souldiers to his party. Hereat *Theodosius* was angry, yet did not condemn him to any cruel punishment; but holding down his Head and blushing, on the contrary, uttered words full of mercy towards so horrible an Offendor. But when those about him perceived it, they took away *Maximus* out of his sight, and at three miles distance from the City, cut off his Head, towards the later end of *August*; though as to the very day there be some difference amongst the Writers of the story.

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Who is delivered up by his men.

And put to death.

Zosimus his malice to *Theodosius* in this Story.The Favourable Account given by *Pacatus* the Panegyrist.

63. Such was the deserved end of *Maximus*, even as *Zosimus* observes, who, though he tell the substance of the Story right, yet can let no action of *Theodosius* pass without fixing something to it that may hurt, at least, his Fame and Reputation. Though he can instance in no Act which might denominate him so debauched, effeminate and sluggish as he makes him, nor could hope, that, his Wars and many Atchievements considered, he could make his Reader believe, he was wholly given up to Idleness; yet he will lessen his valiant performances as much as possible; and because the End and the Design gives the stamp to any Moral Action, he would have it believed that not any noble motive provoked him to undertake the War against the Tyrant, not any kindness or compassion towards *Valentinian*; but kindness to his Sister *Galla*, and compassion toward himself; he being so desperately enamoured of her, that to allay his passion and quiet his restless Appetite, he condescended to the Expedition, and was content to raise one Civil War to suppress another more intestine, to kindle one flame that he might quench another more destructive to himself. But it happens so unluckily for *Zosimus* his purpose, that *Marcellinus*, a Chronologer of these times placeth the Mariage of *Theodosius* and *Galla* in the preceding year, and all other Historians of this Age attribute it to the goodness of his Nature, and kindness to *Valentinian*, from whom, after he had recovered his Empire, for him he took nothing, but left it intire to him, as at the first. If we may hear what *Pacatus* the Panegyrist saith of this performance, the motive and the manner of it (and why not a Friend as well as an Enemy?) We shall have far other thoughts of the Temper and Disposition of this Prince. He having declared what mischiefs befell his Country of *Gall*, from the Cruelty and Rapacity of the Tyrant, adds, "That at length God, was pleased to look upon them, and being intent upon the good of the *East*, to think of their miseries, and to strike this Villain with madness, so that he broke the League, violated the Law of Arms, and feared not to denounce a War. Can I, saith he, imagine it came but by Providence, that he who might have cunningly dissembled under the name of Peace, and by lying quiet might have escaped the punishment of his former wickedness, should erect a second and third Standard of civil robbery, and having passed the *Cottian Alps*, open also the Streights of the *Julian*, and impose upon you, O Emperor, though you were true to the Faith you had given him of pardoning what was past, a necessity of overcoming him? The Commonwealth whose Avenger was now at Hand drove him headlong; and its Lord, who had been openly murdered, now required satisfaction by his punishment. It was not Confidence but Madness, not Rashness, but a kind of Necessity arising from that madness: neither did he provoke you by War, but could not any longer refuse to submit to Justice.

Jus socialeolare.

64. How could he otherwise, have been so audacious, that, being so sluggish, and fearful of death as he was, he should rush upon the Sword and meet it in the face? He, who when he was even overcome, had not the courage to kill himself? And you, truly, for asserting the Interest of the Commonwealth, and obtaining the victory, needed not but to have come alone to the War. For, if in

old

Sect. 4. old time, when Lords (he means the *Scythians*) were to fight with their Slaves " *A.D.*
 went against them furnished with no other weapons than Whips in their Hands, " *388.*
 and so great was the force and power of Conscience, that those that were arm-
 ed at all convenient points, were overthrown by them that were naked, and
 such as offered at first their breasts to wounds, at length subjected their backs
 to Scourges; why then might not you, merely by showing your self have put
 an end to the Controversie, without the Legions? Then, after a comparison made
 betwixt the Nobility and Baseness, the Virtue and Flagitious Wickedness of the
 Prince and Tyrant; he further tells him, " That though he had such an Adversary
 to deal with, and came down not so much to fight with an Enemy, as to bring a
 Rogue to his deserved punishment, yet he had gone as advisedly to work, as if
 he had had to do with some *Perseus*, *Pyrrhus* or *Hannibal* himself. For in the first
 place he had secured the fidelity of those Kings who lay upon the Eastern Borders,
 by a new League on both sides confirmed; that, being secure from abroad, he
 might leave nothing in a dubious posture at home. In the next, he divided his
 Forces into three parts, the better to make the Enemy sensible of his Danger,
 and to prevent his flight. In the last, to such Nations of the Barbarians as vo-
 luntarily offered their assistance, and vowed to stand by him, he committed the
 work of fellow-souldiers, thereby to draw them off from the Borders, where they
 were most suspected; and to procure Supplies for his Army: This Condescension
 once known, all the *Scythians* flocked out in such Swarms, that he might seem to
 have enjoined that Raising of men to the *Barbarians*, which he had remitted to
 his own subjects. Now did the Enemy of the *Romans* march under the *Roman*
 Captains and Ensigns, and followed those Standards, which formerly he had stood
 against: Now did the Souldier fill those Garisons of *Pannonia* which he had for-
 merly dismantled. The *Goths*, the *Huns* and *Alans* answered to his Name, stood
 Sentinel in his Turn, and was afraid to be absent when he was called. From the
Barbarians themselves now proceeded no tumult, no confusion or plundering; for
 if Provisions were scant they patiently endured it; and though Corn, through
 their numbers was rightly judged to be defective, yet by their parsimony they
 rendred it abundant; requiring no other Wages or Reward, but that they might
 be esteemed and called *Tours*. How great is that Ambition which proceeds from
 Virtue. You received a kindness, but such an one, in such a manner, and with
 such a Design, that you might acknowledge that you had received it.

65. After many other things spoken ingeniously in a Panegyric way, of
 which we shall here take no notice, in commending the goodness of *Theodosius* his
 disposition, and the Clemency of his nature, he presseth something that we must needs
 observe, *viz.* his so noble using of the Victory. " He denies not but that the ef-
 fects of his valour might be by the Pencils of Artificers, commended to the eyes
 of posterity, as, his Passing the tops of the Alps, Swimming over the Rivers, or
 Overthrowing his Enemies in Battel: the description of these Atchievements
 might be effected both by Painters and Statuaries. But in what Air, with what
 Colours, in what Brasses or Gold shall these Lines be drawn, he demands, where-
 by the Emperor must be described so far a *Victor* of Victory it self, that together
 with his Arms he laid aside all displeasure; insomuch that not after the War, no
 not after *Maximus* any were punished. For, excepting a few Moors, which, as
 an Infernal Troop, he now about to dye, had shut up with himself, and two or
 three which as so many Fencers of this furious Gladiator were slain, to expiate the
 Offence, Pardon was granted to all others whatsoever, and an Amnesty secured them
 as it were in a Mothers Lap: the Estates of none were set to Sale, no man was de-
 prived of his Liberty; no not so much as degraded from any Honour he formerly
 had enjoyed. Not any mark or distinction was set upon any man, not one re-
 proached or reprehended, suffered any punishment as much as by hearing one un-
 acceptable word. All Persons were restored to their Houses, all to their Wives,
 and (what is more contenting) all to their Innocence. He bids the Emperor
 consider what he had procured by this Clemency, *viz.* that he being Conqueror
 no man esteemed himself conquered. And he tells *Rome*, that she from her se-
 ven Hills beheld this, and though high before in her sevenfold munitions, yet at
 this sight was more elevated by Joy: she which formerly had experimented the
 furies of *Cynna*, the cruelty of *Marinus* after banishment; had felt the felicity of
Sulla in her own overthrows, and the mercies of *Cesar* to such as were already
 dead; she that trembled at the noise of every triumph which sounded to civil
 discords; which, besides the slaughter of Souldiers, that she lost as well on the

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one side as the other, at home had seen the eyes, as it were, of her Senate put out, " the heads of her *Consuls* fixed on Poles, her *Cato's* constrained to die, her *Cicero's* be- " headed and mangled, and had wept, as at all these Sights, so to see her *Pompey's* lie " unburied; she to whom the fury of her divided Citizens had wrought more inju- " ry than the *Carthaginian* at the Gates, or the *Gall* received within the Walls; to " whom *Æmilia* had been more deadly than the *Allian* Day, *Collina* more dire- " ful than *Canna*, having left in her so deep Scars, that she, who ever felt her own va- " lour more heavy upon her than that of others, feared nothing so much as her own " self. But she now had seen a Civil War ended with the slaughter of her Enemies, " peace to the Soldiers, the recovery of *Italy*, and with her own liberty. In Conclu- " sion, she had seen such a Civil War brought to Conclusion, as to which she might " justly decree a triumph. This *Pacatus* uttered, being at *Rome*, whither *Theodosius* " went shortly after the Victory, as we shall see anon.

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66. To what he saith, in reference to breaking the League and the Law of Nations, We may add what St. *Ambrose* relates concerning the falseness of *Maximus* to *Valentinian*, whom he advised not to trust him; for that he concealed but war in a Cover of Peace. And we may also take in what *Socrates* writes, that *Maximus* sent Ambassadors to *Theodosius*; but he neither admitted nor rejected them, and yet grieved to see the Empire of the Romans oppressed with Tyranny under the Vizard of an Imperial Title, but at his going to *Thessalonica* neither made Show of being on the one side nor the other: yet gathering a great power of Men together, he hastened to *Milan*, at which City *Maximus* was before arrived. But as *Maximus* broke the League, it cannot be laid to the Charge of *Theodosius*, that he did so with him. For as it must not be denied, that he yielded him the Title of Emperour, and admitted of the Erection of his Statues, so it is to be taken for granted that *Valentinian* the young Prince was comprized in the Agreement, for whose sake *Theodosius* was glad to bear with the Tyrant that he might not, having such Advantages, make Use of them and swallow him up. And yet he could not but be aware of his Ambitious Designs, and discover more of his Temper; and if he, as *Zosimus* says, provided for management of a War against him, the Sequel shewed that his Fears That he would renew his Parricide and Usurpation upon the other Brother; were but too well grounded. For his Calmness and Clemency in using his good Fortune moderately, St. *Ambrose* in a few words, as one observes, comprizeth many things; when he saith that the very Daughters of his Enemy he had recalled out of Confinement, and committed to a kinsman of theirs to be maintained; and to his mother had sent money out of his own Purse: moreover at the Intercession of the said Bishop, he had delivered many from Exile; many out of Prison; and many from the imminent danger of Death. And herein further appears his Christian Abstinence and moderation, that having by destruction of the Tyrant, not only freed *Italy*, which was the portion of *Valentinian*; but moreover recovered *Gall*, *Spain*, and *Brittain*, which he had seized and held ever since the Death of *Gratian*, yet did he not touch these Provinces so as to pretend to any Sovereignty to them by way of Conquest; no not so much as to divide them betwixt *Valentinian* and himself; but quitted and relinquished them to him, having staid so long in these parts till he could settle his Interest and reduce all things into their former methods.

How *Pacatus* is to be understood.

67. But whereas *Pacatus* speaks of *Theodosius* his degrading none for their former Honours, it must not be understood as if he confirmed what ever *Maximus* had pretended to do in the Advancement of any to dignities under himself during his Usurpation; but of such as had in former times been received. For it had been a notable Incouragement to Rebellion and Usurpation, had the Rewards of joyning in Treason, granted to his fellow Rebels by the Usurper, been confirmed afterward by the Conquering and lawful Prince. So far was *Theodosius* from transgressing the right Rules of true Government in this kind, that having subdued *Maximus*, on the two and twentieth of *October* he gave out an Edict at *Aquileia*; forbidding that any should dare to assume to himself any Honour, which the Audaciousness of the Tyrant had granted; but that such presumption should be recalled to its former Condition. And because, for partiality, and out of Faction many doubtless had been oppressed, as well loyal Subjects ruined, as Traitors preferred, upon such a Turn in the Common-wealth, by another Law dated at *Milan* (whither he removed shortly after) on the tenth of *October*, he commands that all such designed and injurious Judgments be revoked, as had been promulgated by him, whom he termes *Infandissimus Tyrannorum*. These Laws concerned

L. 6. de infamandis his q. sub Tyrannis. Cod. Th.

L. 7. ejusd. tit.

sect. 4. concerned *Italy* where they were made, and that we may speak to this matter all at once, as he directed them to *Trifolius* *Præfect* of *Italy*; so on the fourteenth of *January* following, he inscribed another Constitution to *Constantinus* the *Præfect* of *Gall*, whereby he also ordains, that all, who being promoted through the Usurpation of the Tyrant, had received the unlawful Title of any Dignity, shall produce and give in all such Letters or Codicils. Moreover, all such Sentences and Decrees of those, who never having been Lawful Judges could not justly pronounce, he commands to be abolished and taken from amongst the Records, that their Authority being nulled, none may offer to rely upon them, which time had obliterated with their Author. He excepts only such matters as had been transacted by agreement and Consent of the parties, provided no fraud or Constraint in them appeared. And to these he adds, *Donations*, *Emancipations*, and *Manumissions*, in all which, he saith, it was sufficient to have willed them. But this was after the death of *Victor*, a Boy, the son of *Maximus*, to whom he had given the Title of *Augustus*, and left him at *Triers*, to the Charge and Defence of *Nannienus* and *Quintinus* the *Magistri Militum*; of whose Carriage in *Gall* during the late Revolutions in *Italy*, something here is to be added.

68. While *Maximus* lay besieged within *Aquileia*, the *Francks* under the leading of *Genobald*, *Marcomere* and *Suno* passed over the *Rhine*, and invaded the lower *Germany*; many persons they slew, and wasting the fertile Country adjoining, struck great terror also into *Colein*. *Nannienus* and *Quintinus*, to whom *Maximus* had committed the Care of the Country, as well as his Son, hearing of their Motions, marched presently with an Army to *Colein*, where they found that such as were loaded with Booty, had repassed the *Rhine*, into their own Country, and the rest were still in the *Roman* Territories. and had renewed their Depredations. On these Rovers they fell, at a place called *Carbonaria*, and destroyed most of them, and then was it debated betwixt the two Generals, whether they should invade *France*. *Nannienus* was utterly against it, and returned to *Maguntiacum*, but *Quintinus* with his Forces, passed the River at a Castle called *Nivisum*; where Coastling down by the Rivers side he found many Villages and poor stragling Houses void of Inhabitants; for the People pretending Flight, had betaken themselves into more remote Woods and Fens, having stopped up the Passages, as they would have it believed, with the trunks of trees. *Quintinus* having burnt all the Houses, kept his Men in Arms all the Night, and then by break of Day, passing into the Wood, wandered about, and intangled himself in the Thickets, and By-ways till Noon, and had opportunity enough to view the several Quarters thereof. But he found them, to his small Contentment, Fortified with strong Hedges and Fences on every side; and therefore was forced to get out into the Champion adjoining to the Woods. Endeavouring to do this, the Enemy appeared, though in no great Numbers, on the Boughes or Bodies of Trees joyned together, and as from so many Turrets annoied his Men with showers of Arrowes, envenomed with the deadly Juice of Herbs; so that though they did but pierce the Skin without violating any principal part, yet the Wounds proved mortal. The Numbers of the *Francks* increasing so, that the Army was beset with them, it got out into the Plains, and that with great contentment, though the Enemy on design had left them free to their Accels. But the Horse gladly making Use of the Advantage they had of first escaping, as they imagined, found only a swifter passage out of the World, being swallowed up in the Bogs; wherein the Bodies of Men and Horses together, intangled, and sunk one another, by their Strugling. The Foot having ventured far enough to find the place impassable, retired into the Woods in a trembling Posture. The whole Party being thus disordered and defeated, *Heraclius* the Tribune of the *Joviani*, and almost all others who had any Command, were Killed; and but few escaped by the obscurity of the Night, and the Assistance that the Woods afforded.

69. But *Maximus* the Tyrant being Slain, as we said, *Valentinian* sent *Arbogastes* his *Magister Militum* into *Gall*, for the suppression of *Victor* his Son, and in the rooms of *Nannienus* and *Quintinus*, he put *Carietto* & *Syrus*. The Design was accomplished without any great Contest: For *Victor* in the first Attempt was defeated, taken, and slain. All *Gallia* was recovered to obedience, and *Carietto* and *Syrus*, having nothing else to do, went and showed themselves with their Forces against the *Francks* on this side the *Rhine*. Newes hereof, *Zobinus* tells

Sect. 4.

us, coming to the Ears of *Andragathius*, who Cruised now with his Ships to and again upon the *Ionian* Bay, he knowing he was severely to be Treated (for his Murdering *Gratien*) would not expect the coming of the Enemy, but punished himself by leaping into the Sea, which he chose to trust, rather than his greatest Adversaries. And this *Historian* further is pleased to add, that *Theodosius* delivered over to *Valentinian* all that Empire which had been held by his Father, which seemed congruous to those good offices he had received from their Family. Such things as were Choice and possessed by the followers of *Maximus* he bestowed amongst his own Men: and permitted *Valentinian* to dispose of the Affairs of *Italy*, *Gall* and other parts of his Empire, his Mother being present and assisting him; supplying also what was defective in him, by reason of his Youth, with such Prudence and Skill, as her Sex afforded her. Then talks he of *Theodosius* his return to *Theffalonica*, as if he presently quitted the Western parts and would not intermeddle in the Settlement of what he had lately recovered; whereas he remained in these parts for three years, after the Overthrow of *Maximus*, or near thereabouts; and employed most of his time in the right Establishment of the Interest of these Quarters.

The Emperors command that Metals for making of Arms be paid in to the Forges in kind.

70. Having had so much occasion to make Use of Arms this year, and thereby to find what Inconvenience lay in the ordinary method of furnishing them, the two Emperours now constantly lying together, concluded of a course of Reformation. And this was to discourage and disown that Custome which for some Reasons in other times had been of force, whereby the *Provincials*, instead of other Metal, were permitted to find Money. The only design of the State was, to be furnished with convenient Weapons; but the *Fabricenses* receiving money from the *Provincials*, who were to find Metals for this purpose, satisfied themselves with the Oare of such Mines as were no whit proper, but which upon Tryal in the Forge, was wont to fly and break in pieces. *Theodosius* therefore, and *Valentinian*, to prevent such Frauds, Command that for the time to come in all Ages, it be held for a Law, that the Forges be served in *Specie* and not in Money; and that out of the Noble Veins of the Earth; particularly in such Metal as will readily Melt, and not lye and multiply, like Dross, in the Fire. In like manner, several Emperours Commanded that Tributes should be paid in kind, though sometimes other Princes, reason of State requiring, allowed of the taking of Money. In particular, the Inhabitants of the Mountain *Taurus*, by reason of the Excellency of the Iron which was found in their Territories, were obnoxious to this Collation. Because this Law respects the Metal of Iron, therefore is it directed to *Tatianus* the *Præfectus Prætorio* of the East, the Tribute whereof belonged to his Cognisance; whereas, had it properly related to the Forges, or the Management thereof, it had been directed to the *Magister Officiorum*.

L. 2. de censibus c. Th. lib. tit. 22. c. Cod. Jus. Dat. 15. Nov.

Valentinian makes a Law in behalf of the *Prætor* of Rome.

71. The year that next followed, was the CCCLXXXIX of our Lord, and had for Consuls *Fl. Timasius* and *Fl.* (for at this time *Flavius* was the General *prænomen*) *Promotus* for Consuls: it was the fourteenth of *Valentinian* the second, and the second Indiction. *Præfectus Prætorio* of the East *Tatianus* still continued; one *Constantianus* held that Office in *Gall*; and in *Italy* *Trypholius*: *Albinus* was *Præfect* of Rome, and *Proculus* the Son of *Tatian*, of *Constantinople*. After the Defeat of *Maximus*, the two Emperours made their abode at *Milan* till towards the beginning of *June*, where, besides what they Enacted for repealing and nulling such things as had been done by the Tyrant, they thought fit to make other Laws for the good Government of the State, and the promotion of Justice. Though they now resided at *Milan*, yet *Rome* was in their Eye, whither ere long they resolved to go; and very probable it is, that that City had been Faithful and Loyal to *Valentinian*, during the late Usurpation, as far as the Nature of the Times would permit. For, being solicited in behalf of the *Decurie* or certain Colleges or Bodies belonging to it, He (or they) takes occasion to declare, that he will suffer nothing to be lost of any privilege or Indulgence granted to the *Æternal* City. But will so far maintain all its antient Privileges as to be ready to grant any new favours, if reason shall require it. In particular therefore, whereas the *Decuriales* of *Rome* were from old time wont to be supplied with two out of each City of the Province, he will for their Defence have the same Orders observed as were granted by himself or Predecessors. And if any one would pretend that the Person was not such, as to whom such privileges did belong, the matter should be tried and decided before the Judge of the *Decuria* himself. As we have formerly said, there were various *Decu-*

A. J. 38 Timasius & Promotus to Col.

L. 3. de viis Ur. me Cod. lib. 14. Dat. ad lium P. 14. Kal. Eius pa. ima abu. Cod. Ju.

ect. 4 rie in Rome, as of the *Librarii*, *Fiscales* and *Censuales*, and so also in the Cities and *Municipia*, as of *Librarii* and *Scribes*, who wrote for such as were in Law, or upon other occasions. But of those of the (principal) Cities of Provinces, we find here, what nowhere else occurs, and that two were wont, and that of old time, to be sent up to Rome, like as the Senate and other places of Repute and Trust were Communicated to those of the Provinces, either, that by virtue of this Communion betwixt City and Country, the People and Senate of Rome might have a just Account of what was done in the Provinces, or that the Provinces, when they came to Rome upon Business, might have such as they could resort to; or for both these Reasons; in like manner as the Companies of Rome had their peculiar *Defensors*, so had these their Judges in Case any denyed one of them to be a *Decurialis*, or would object any thing against the Immunities he enjoyed; but whether this Judge was to determine the matter Solely, or refer to the Court, to the *Prefect* of the City, or the *Prefectus Pratorio*, to whom the Law is directed, doth not evidently appear. However, had it not been for this Law, we had known nothing of these Particulars.

A. D.

3 8 9.

72. This may be more peculiarly ascribed to *Valentinian*, because directed to the *Prefect* of Italy; and for the like Reason, as well as for others, the next we find made in order of time, or but four days after, we must judge to have been Enacted by *Theodosius*, though mutual assistance (especially in the former) they might contribute each to other. By the antient Law of the Romans, the Emperours might be made Heirs, or have Legacies bequeathed them, as well as private Men, by Codicils or Letters, as well as Testaments. Nay, in some difficult times, Testators were glad, if not forced to do it. But whereas Princes were said to be above the Laws, herein *Theodosius* shewed an extraordinary Example of Humanity and Self-denial, in that he refused the Benefit thereby allowed to other Persons. By a Constitution directed to *Proculus* the *Prefect* of Constantinople, he declares that he will not admit any thing left to him, or his near Relations, by any Codicils or Epistles, though he will have the Right and Custome to continue amongst private Persons; but leaves it to fall as it would have done to the Children or next Kindred of the Deceased. By his Relations, he doth not mean his Slaves or Freedmen, not his Friends as some have imagined, but his wife *Galla*, (not *Flaccilla* as *Gothofred* instanceth by mistake, she being now dead) his Daughters *Galla* and *Placidia*, and his two Sons *Arcadius* and *Honorius*. Now the Reason why he rejects any thing thus left by *Fidecommiffary* Codicils or Letters, is, because those Instruments were less solemn, than were Testaments, and therefore Fraud might more easily be committed, It's true, the matter might be discovered by Torture, yet however, because they were subject to Fraud, therefore he disclaims all Benefit that might from them accrue to him or his. But where the Solemnity was greater and the certainty more clear, as in Testaments, there he rejects not what should freely be given him by any. However, the goodness of *Theodosius* was so remarkable herein, that *Symmachus*, of whom we have made so much mention, extols it to admiration, in an Epistle written to *Flavianus* his Brother, as he calls him, sometime *Prefectus Pratorio* of *Illyricum* and *Italy*.

I. 2. de Testam.
& Codicillis.
Cod. Tit. lib. 4.
tit. 4. Dat.
10. Kal. Febr.
Abell i Cod.
Just. potissima
sua parte.

73. Having with my pen, saith he, ran through the Commendations which our Lord *Theodosius* deserves, both for his Government in War and Peace, (for I confess I have rather touched at them, than handled any particular according to its Importance) to the matters relating to Peace, I have added his Laws, which, as I know they have taken off all Admiration from such as were Enacted before his time, so I do not think that they have left place for the like Reputation to any that shall be made after them. Especially this new Sanction concerning *Fidecommiffa*, and the Profits arising from *Codicills* being for ever rejected by the best of Princes, so much in Renown exceeds the lustre of what has been done before, as it is more Noble and Excellent for a Governour to lay a restraint upon himself than other persons. And it's my Wish, that the Avarice of private men may understand the meaning of the Law-maker, and from his Laws frame good Manners to themselves. For it's not to be doubted, what he would have other Persons to do, who first of all abhorred those profits which he knew to be suspected. But I am afraid, that the Covetousness of bad men, will think this profit that he has rejected to be for their own turne, and the Cause of Innocent Persons will be rendered worse, if those only may have occasion of fraud, who neither from Law nor Shame have any Restraint upon them. Therefore seeing that the Emperours themselves are more tied up, let their condition work as a Legal Medicine upon the

Lib. 2. Ep. 13.

Law in
general, es-
pecially this
colled by
umachus.

Sect. 4. the depraved Desires of private men. Antient Constitutions, the vigour whereof " *A.D.*
fell with the Makers of them, are become of no efficacy with guilty persons. " *389.*
Therefore is so much severity to be added as may suit and ballance the Increase of " *389.*
Naughtiness. Otherwise if the greater Number receive no amendment, in vain " *389.*
doth the Emperour alone, whose Goodness and Integrity was always remarkable, " *389.*
bind himself to what is just by severe Decrees. Here *Symmachus* concerns him- " *389.*
self for having the Subject to imitate the Goodness of the Prince. For though
he binds himself by this Law, yet he leaves it free to others to receive any Emolu-
ment left them by these *Codicills* or *Letters*; yet so, that if there be any Contro-
versie moved concerning the truth and validity of the Writing, whether the Action
be Criminal or Civil, (for either it might be) the Proof of the truth thereof shall
lie upon him that produceth it, or is to receive benefit by it. Otherwise in Law the
presumption lies for the Writing, and he that Sues is to prove the Forgery; and if,
in other Cases, the Defendant be put to prove in a Suit of Forgery, yet is he not in
the first place as here, or alone, to do it. But thus we see some Excellent Princes
have not only been pleased to equal themselves with their meanest Subjects, as to Pri-
vilege in Law, but even restrain and put stricter Obligations upon their own Per-
sons, and their nearest Relations. In former times they challenged nothing due
from an Imperfect Testament, nor by any naked Promise or rash Offer, no more
than private Persons, *Constantine* affirms the Causes of private men to be of more
Consequence to him than the Defence of the Treasury; something suitable to what
Pliny affirms, *The Cause of the Exchequer never to be bad but under a good Prince.*
And *Capitolinus* writes of *Marcus Antoninus*, That he never favoured it in matters
relating to Profit. Moreover *Augustus*, *Tiberius* and *Adrian* refused to take any
thing by virtue of the Testament of an unknown Person. However, in such Mat-
ters as these relating to good Government, the Prince is to consult his Prudence as
well as his goodness of Nature; for without Treasure can be no discharge of pub-
lick Service. Where he may do it, it's his Duty to be Indulgent, the Safety and
comfort of good People being the End of Government; but necessary Expences
must be defrayed by lawful Means. Therefore we cannot but in Charity think
Justinian governed by this sentiment, and urged by the like occasions, when he
suppressed this Law, and approved and preferred such former as allowed of the
Prince his receiving Benefit by *Codicills*, and *Epistles*.

74. *Valentinian* not long after concerned himself in Estates, not left by *Will*, *Codi-*
cill or *Epistle*; but such as should descend from an *Intestate*. By the ancient Law of
the *Romans*, as well that of the twelve Tables as *Prætorian*, in Succession no regard
at all was had of the *Cognati*. For the *Decemviri*, and those that came after them,
being concerned for the Dignity and Propagation of *Families*, designed the Suc-
cession to belong to those alone who were of the same Stock and House. Therefore
Grandsons (as we call them) or Nephews by the Daughter, being not of the same
Stock or Family, but Branches issuing from another Root, though by a Cien in-
grafted, could not succeed their Mothers Father, but only their Father, or Grand-
father, by the Fathers side, or other Ancestor; in whose power they were till Eman-
cipated. For the Daughter propagating only the Family into which she married, and
not that of her Father, her Children were excluded not only by the Sons and Daugh-
ters of the Deceased, but also by those they called *Agnati*, which were Kindred by
Persons of the Masculine Sex, as born together or Connate with the Father. Such
were Sons of the same Father, their Uncle, or the Fathers Brother, the Sons of Bro-
thers, and the like. After this manner was the Right of Representation introduced,
the Law admitting Nephews by the Son, with their Uncles and Aunts, to Successi-
on, for so much as their Father himself should have been admitted to. But *Valen-*
tinian conceiving the Nephews by Daughters to have too hard measure in this Point,
now ordained, " That in case a Man died and left Sons, and Nephews by a Daugh-
ter, these Nephews, if she was dead, should receive two Parts of three of so " *L. 4. Cod. Tit. de legitimis hereditat. Dat. 5. Kal. Mart. Mediol. & L. 9. Cod. Just. de sus & leg. imp. inc. à Trib. niano mutilata. vide Just. Institut. de hereditat. que in Intestato. Sil. 15. & 16.*
much as she should have received amongst her Brothers; and the third should fall
to the Brothers and Sisters of her that was dead, being the Uncles and Aunts of
the Nephews. But in case one so dying left no Sons, but only Nephews by a
Daughter, and such *Agnati*, or Kindred, as we formerly mentioned, which by
the Old Law were preferred before such Nephews; he ordains, That only a fourth
part of the Inheritance shall go to such *Agnati*, and the Nephews obtain the rest.
And what he thus Ordains concerning the Estate of a Grandfather by the Mother,
he extends to that of a Grandmother either by the Fathers or the Mothers side;
there being the same Equity and Reason, as he saith, except such Nephews had "

Valentinian
concerns him-
self for the
Succession of
Grandchild-
ren by
Daughters.

4. been disinherited by their Mother; for in such Case being cut off from Succession " *A. D.*
to their Mother, they were also cut off from any benefit they could have of Re- " *389.*
presentation. But further, as by the Laws of the Romans, If Parents made their " *Wills, and either passed by their Children, or disinherited them without a Cause, " notwithstanding the Will, yet such Children had their Action at Law, whereby " they might recover their legal share of the Inheritance; so in case these Nephews " were passed by, by any of these their Relations, Grandfathers, or Grandmothers, " in the same manner, he leaves them in the same way to prosecute their just " Claims to their shares in their Estates, which they might recover by way of Repre- " sentation of their Mother: But if she was either disinherited by her Parents " justly, or they, her Children by her, then did the Right of Representation fail; " and to nothing could they Succeed. Such Provision did *Valentinian* make for " those for whom the Ancient Law did nothing provide, which though good in com- " parison of their former Condition, yet still seemed very scant, part of what fell to " the Mothers share being yet appropriated to others. Therefore in case the Grand- " father designed them their entire share, there was necessity for *Codicills* or a *Testa- " ment* to be drawn, to convey the Estate to them in a certain Forme. And *Justinian* " afterwards more enlarged the Right of these Nephews by the Daughter; first, by ta- " king away all the Right of the *Agnati* their coming in for a tenth part; and after- " wards by cutting off the Uncles and Aunts from their Share of what formerly they " recovered of their Sisters part. Thus was that great Concern, which the Old Civil " Law had for Families regulated and lessened by the Consciences of later Princes. " But after the Laws of the *Lombards*, or those we call *Feudatary* came to be in force " in the West; few are so little sighted but may take notice, how Lands have been li- " mited most commonly to the Eldest Son; or so as the Services due to the Lords might " best be performed.*

75. But by this time, not only the Noise of the Destruction of the Tyrant *Maximus*; but also of the Defeat and Death of his Son *Victor*, and the intire si-
nishing of that Civil Dissention, might arrive in the *Eastern* Parts of the Empire. Therefore *Theodosius*, to prevent such Abuses as we formerly mentioned to have hap-
pened upon the coming of such Tidings, by an Edict sent to *Tatianus*, renewed the Law he had formerly made, whereby he decreed, That nothing should be Exacted from the *Provincials* in the way of Congratulation. By reason of Senators their too highly valuing themselves, and esteeming their Order too great to receive any Affi-
stance or Protection from Inferior Persons, it came to be a Question amongst them at this time, whether to Pupills, and such as were Adult, though under Age, of this Se-
natorian Rank, Tutors and Curators might be assigned from amongst those of In-
ferior Condition. *Theodosius* was Consulted and Concerned in the Matter, so far as to publish a Constitution for Determination and Settlement of it. " He Ordains for " quieting of all Animosities, That the *Præfekt* of *Constantinople* (for to *Proculus*, " the Son of *Tatian*, the Edict is directed) take to him Ten Senators for his Affi- " stants, together with their *Prætor* called *Prætor Tutelaris*, (to whom belonged these " Matters of *Guardianship*) and with them, their advice and Consent concurring, ap- " point Tutors and Curators to them as he should see cause. Indeed of Old Time it " belonged to the *Præfekt* of the City to assign these Guardians; but as in Old Time " in certain Cases the *Prætor* at *Rome* had Ten Men to assist him; and as the *Prætor*, " assisted by the major part of the *Tribuni Plebis*, who were Ten in Number, for- " merly discharged this Trust, so *Theodosius* thinks fit to add these Ten Persons to the " *Præfekt*. And not only them, but the *Prætor*, called *Prætor Tutelaris*; for as in " Old Time there was a *Prætor*, which especially concerning himself about Liberty, " (bestowed on Slaves) had thence the Title of *Prætor Liberalis*; so also *Marcus An- " toninus* the Emperour Instituted another, who from his Principal Charge of *Tutions* " and *Curatorships*, obtained that of *Tutelaris*; for it concerned the State as much that " Persons under Age should be Protected, and their Estates secured; as that, by virtue " of *Manumissions*, new Citizens should be added to the Body Politick. But, as " for such as were by the *Præfeks*, and these Persons, to be assigned, to satisfy the Doubt " thereupon, the Emperour declares, that they may be of any Order, so they be just " and fit Persons. For, Fidelity doth not depend upon Dignity, or Being of such a " Race or Stock, Honesty and Integrity being often conspicuous, nay sometimes more " in those of lesser quality. So that to a Boy of *Senatorian* Rank a Person of *Equestri- " an* Order, or a *Plebeian*, might be assigned Tutor; yet so as he excepted such as " were bound to the Services of Corporations, from being assigned Guardians to the " Sons of Senators. In the last place, he so far enforces this Law, as only to have " place,

A. D.
389.

*Allio in offi-
ciosa T. la-
mentis.*

*Habe Tatian
K. N. B. L. ult.
N. quid pub-
lice letitie
m. 15 & 20.
Cod. Tit. Dat.
4. Kal. Mili.
Abest à Cod.
Just.*

*L. 3. de Tu-
toribus & Cura-
toribus crea-
dis. Cod. Tit.
lib. 3. tit. 17.
& L. 1. de Tu-
torib. vel Cu-
ratorib. Illu-
strum vel clu-
visimarum per-
sonarum. Dat.
6. Kal. Jan.
M. diol.*

*ofius for-
my thing
Exacted
pod*

*ains how
rdians
be assign-
o Youths
enatorian
rec.*

Sect. 4. Place, where no Guardians were assigned by Testament, or such as by Law and of Course were to have the Charge, were wanting, and in other matters he leaves the Conditions and Estates of *Minors* to be Regulated and Ordered by the ancient Laws.

The Emperors restrain such as seized upon Confiscated Goods.

76. Now it's to be concluded, the Officers of the Revenue were busie in Gall, in confiscating the Estates of *Maximus* and his Followers. For, though *Pacatus* speaks so much like a Panegyrist, of the mildness shewed by *Theodosius* after the Victory, and have the Fortunes and Estates of guilty Persons were spared; yet is he not to be understood, as if there were no Confiscation at all; for, besides it would how been imprudent to leave so dreadful a Rebellion and Usurpation altogether unpunished, we are assured of proceedings in this way from the Contents of a Law published this year at *Triers*, on the fourteenth of *June*. Among the Goods belonging to the late *Tyrant*, his Son and Officers, were (as needs must be) found also such as belonged to private persons, which they had unjustly seized; and the Emperors were informed, that without any due Process or Form observed, after publication made of the Estates of the Traitors, some private Persons laid Hands upon several things they pretended to belong to themselves, not staying for any due Tryal or Sentence, but being their own Judges in the point. Hereof the Emperors show an high and just Repentment, and command that all things so seized shall, notwithstanding, be appropriated by the Treasury, in way of punishment of these Arrogant Persons, who, when they might have had a fair Tryal, would not stay for Judgement, but despising that Victory, which Justice at length must have brought them, made choice rather of that Conquest which their own Audaciousness objected to them. In case such Persons had Right on their side, yet in way of Punishment for their Impudence, they Ordain that they lose their Suit, or the thing that was in Question, though of Right it belonged to them. And in case the thing so seized, or invaded, did not of Right belong to the Scizor or Invader, he should forfeit the Value of the Thing so unjustly seized. Now what they Ordain in reference to the Publick, as to this Concern, they also think fit to Apply to the Affairs of particular men, imposing the same Penalty upon any Violent or Forcible Enterer whatsoever. In Conclusion, they enact like themselves, that their Exchequer shall not begin any Action upon these People being in possession, though of the whole, Confiscate Estate; that it do not make any Question or Examination, but receive all such Quarrels and Demands. This Constitution is directed to *Messianus*, the *Comes Rei Private*, to whose Treasury these Confiscations did belong, and to whom they give the Title of *Magnificence*.

L. 2. u
Cod. In
tit. 22.
prima
L. Sent
Cod. Ju
Historic

Und an
Officio
ficientia
cavendi
decerni
Sacra
Domus
litem ex
non infi
gatur,
expet
patiatu
men.

Theodosius Orders the East to supply Illyricum with Money in room of Provisions.

77. Though *Theodosius* was now in *Italy*, and a great distance from his own District, yet had he still his thoughts upon it, and especially such parts thereof as were exposed to the Incursions of *Barbarians*. And need there was for his so doing; for *Zosimus* writes, that such of them as had hid themselves in the Fens, and in the Woods adjoyning to the Marishes, upon the falling down of the *Romans* upon them, now hearing that he was employed in the Civil War, took the Advantage and made great havock of all things in *Macedonia* and *Thessaly*, without resistance. Whether it were in reference to these motions or for repressing the Insolence of the *Gruthingi*; the state of the Times required that *Illyricum* should be well defended. For this purpose, whereas *Gratian* had ordained that the Souldiers called *Comitatenses* should receive their Provisions in kind; but those that lay upon the Borders in Money: *Theodosius* now thought fit, that, what Supply was wont to be made out of the East to *Illyricum*, should all indistinctly be paid in Money. Possibly because in *Illyricum* there was plenty enough of Provisions to be bought up, and it was found, by experience, that what was brought so far received detriment by the Conveyance. He interstanceth in three things, viz. *Bacon*, *Oyl* and *Salt*, and sets the Rates to be paid for them; one *Solidus* for eighty pounds of *Bacon*, and as many of *Oyle*, and as much for twelve *modii* of *Salt*; so that it appears that *Bacon* and *Oyl* was of the same value in those days, and eighty pounds of each was of the value of one *Solidus* or *Aureus*. But this course of receiving Provisions in kind, or Money in lieu of them was altered according to the pleasure of Princes, and exigency of Affairs. And as he might find reason to change Provisions into Money because of their ordinary corrupting, by reason of the length of the ways; so at this time he was certified of the corrupting of Money it self where this Supply was to be had. This provoked him by an Edict directed to *Tutian* to declare such Persons as should falsifie the Coin (whom

L. 17.
bortalil
In Abi
Cod. Ju

he

Sect. 4.

he calleth by the name of *Parachraſta*) to be guilty of the Crime of High Treason; this Offence being generally eſteemed a violation of the Rights of Ma-
jeſty.

A.D.
389.

Theodoſius accom-
panied
th Valenti-
an and his
in Honorius
es to Rome.

78. But now went *Theodoſius* to *Rome*, accompanied by *Valentinian* and by *Honorius* his Son, towards the middle of *June*, and there they reſided for the moſt part of three months, viz. *June*, *July* and *Auguſt* following. For by the Dates of certain Laws made at that City, we find them there on the ſeventeenth of *June* and the twenty eighth of *Auguſt*; and betwixt thoſe Dates ſeveral other Conſtitutions made, as for the good of the Empire in general, ſo principally for the concerns of that Mother City. The firſt is of Religious concernment, it being a good and profitable thing for Princes to begin with ſuch matters, which being to conſider in its proper place, we ſhall take notice, that though he now reſided in the City of *Rome*, and principally concerned himſelf, with *Valentinian*, for that Mother City, yet his thoughts ran upon the Beautifying and Adorning the other of *Conſtantinople*, poſſibly moved by ſome Indignation that the Daughter, and which was now the Seat of his own Empire, bore no greater reſemblance to the Mother. He directed an Ediſt to *Proculus*, *Præſect* of that City, wherein he takes notice, "That it's a very unſeemly thing, that the publick Splendor of a City ſhould be corrupted; or ſpoiled, by the adjoining of private Houſes; and that the Ornaments that had been added in his time or before it, ſhould be eclipsed by ſuch works as had only their riſe from greedineſs after Money. Therefore he impowers him (to whom he gives the Title of *His Sublime Eminence*) to remove all ſuch Incroachments, if they ſpoiled the Proſpect or the Beauty of the Place, whether they had been introduced by the meer preſumption of the Builders, or by leave ſurreptitiouſly procured; leaving it fully to him to demolish or let ſtand what he ſhould think fit. By theſe private Buildings are to be underſtood Shops, which as in every publick place, where multitudes or concourſe of People are, were not only then and there erected, but we ſee now to creep up every where for the readier ſale of, often times, but trifling Commodities. So now it happened at *Conſtantinople*, where the *Forum*, the entrances to the publick Baths, as we ſee at this Day the Entries into *Churches* (uſually with Books and Beads) and the places of publick Adminiſtration of Juſtice were peſtered. But we muſt needs take further notice of what *Theodoſius* mentions in this Law, concerning publick Ornaments which were added in his Days; to whom the Writings of ſeveral other perſons bear witneſs: particularly thoſe of *Themiſtius*, of which we have ſpoken heretofore. Theſe were an *Haven* or *Port*, an *Aquaduct*, a *Palace* which bore his Name, *Baths*, *Porticus*, *Gymnaſia*, and the *Forum* which was alſo called after him, of which is made mention in an old Deſcription of *Conſtantinople*. There was alſo when the Tyrants were overthrown and deſtroyed, a *Column* erected in the *Hippodrome*, when *Proculus* was Judge or *Præſect* of the City (on which were ingraven two Inſcriptions or Epigramms, the one in Greek, the other in Latine) which accords with this very year.

hence he di-
cted an Ediſt
re the Beau-
tying of *Con-
ſtantinople*.

low he de-
reaned him-
ſelf at *Rome*.

79. *Theodoſius* thus, at *Rome* provided for the luſtre of *Conſtantinople*, but it was, probably, as we ſaid, by having a view of that old Sovereign City; that he knew the better how to correct the miſtakes committed in the contrivement of the New. He might the more conveniently behold the Buildings, becauſe he made his Entry in Triumph; ſometimes in his Chariot and ſometimes on Foot, and ſo, as one changeth the Word, *He triumphed over War, and Victory it ſelf*. In the *Court-Houſe* he ſpoke to the Senate, and at the *Reſtra* to the People, carrying himſelf as a Prince to them all in general, and as a Senator to each in particular. In the Senate Houſe he was commended by *Pacatus*, a moſt Eloquent and Witty Perſon, in that Panegyricall Oration of which we have made ſo much uſe already, and muſt do more, wherein touching at other matters, he hath eſpecially celebrated this War, Victory and Triumph over *Maximus*. Concluding his Speech, at the cloſe he tells him, That it ſhould ſuffice to have ſpoken of ſuch of his Acts as were already paſt; and now when in courſe he was to make mention of what he did at preſent, he would rather chooſe to make an end of his Oration, than to invade the Office of the moſt ample order of the Senators. He hopes that he ſhould obtain pardon for his pious temerity, whereby he did not ſo much invade what belonged to other perſons, as made uſe of what was common to all Subjects. That it was, he hoped, lawful for him to ſpeak of ſuch things as were happily performed by him, amongſt Barbarous Nations, and in foreign Provinces for the Sovereign command, with his Permiſſion and the favour of the Senate, leaving what he had done

acatus his
panegyricall
oration to
him in the
enate Houſe.

L. 9. de ſili-
monia. c. d.
The. H. de Ta-
tione, L. N. E.
L. 2. de No-
ſta. ſil. c. d.
L. 2. de No-
ſta. ſil. c. d.
L. 2. de No-
ſta. ſil. c. d.
L. 2. de No-
ſta. ſil. c. d.

L. 2. de Opti-
m. c. d. c. d.
L. 2. de Opti-
m. c. d. c. d.
L. 2. de Opti-
m. c. d. c. d.
L. 2. de Opti-
m. c. d. c. d.

Sigonius.

Sect. 4.

and still continued to do, at *Rome*, to *Roman* Wits. To them it belonged to shew in what manner he appeared the first day he arrived; how he behaved himself in the *Court*, how at the *Rostra*; how he followed the Spoils of War, one while in his Chariot, another while on Foot; (the more setting himself forth by this change of Posture) as triumphing both *over War and Pride*: how to all in general he demeaned himself like a Prince, and no otherwise than as a Senator to every one in particular; how often and how familiarly he took a view, not only of the publick works, but also of private Houses, without any Guard to attend him, as being far safer and more fenced by publick Love. Let these things, saith he, be set forth and commended by their Tongues and voice, who by the assistance of the common Joy may both more excellently speak of matters of greatest moment, and more justly and fitly of what is of private and particular concernment. Then falling into a kind of extatical fit, he cries out. O my happy travel! the pains I have taken have been well bestowed. At what glorious things have I been present, with what Joys prepared, what wonderful matters shall I, at my return make known to the Cities of *Gall*! with what multitudes of astonished People? with how great an Auditory shall I be crouded, when I shall say, *I have seen Rome, I have seen Theodosius, and I have seen them both together: I have seen him who is Father of a Prince, Avenger of a Prince, and also the Restorer of a Prince.* To me they will flock from far and wide; from me the whole series of all the Passages from first and last will be derived; from me both Poetry and History will receive its Argument. I will requite you, Sir, for the injury I do you; though I speak nothing of you my self, that's fit to be read, I shall instruct them, that may speak or write it.

A.D. 389.

What Reformation he made in the City.

80. He tells us what brave things in general *Theodosius* did at *Rome*, but we must consider what he acted in particular for that City. We find as for the ecclesiastical state thereof, so for the amendment of the Civil he made several Laws. In order to the better administration of what concerned the Prince his Patrimony in the venerable City of *Rome*, as they term it, the Emperors tell *Albinus* the Prefect thereof, that Appeals shall lye from the *Rationalis* to the *Comes Rei Private*, if the sum in contention exceed two hundred pounds of Silver; if it do not amount to so much, then to himself the Prefect. They received a complaint that the publick Slaves belonging to Forges or other publick works, at this time deserted the service, and went and joyned themselves with private Persons, and took as Wives their Women Slaves. To restrain this they Ordain that, Those so offending, with their Wives and also their Children, be forced back to their former condition and labour. But *Socrates* also writes that, though the Emperor *Theodosius* staid but little in *Italy*, yet in that space he did much good to the City of *Rome*, partly in bestowing what was profitable for it; and partly in taking away what was mischievous to it. For as he Demonstrated his Bounty and Liberality to it in many respects, so he removed two things out of the way which were great blemishes unto that Place. There were great and ancient Buildings at *Rome*, in which that Bread was baked wherewith the City was supplied; the Overseers or Governors whereof the *Romans* in their own Language called *Mancipes*, who in process of time turned those Houses into Dens of Thieves. For by reason that the Bakehouses belonging to them were under ground, and on the sides of them were Victuallers and Tipling places full of Whores; many that resorted thither, whether for satisfying of their hunger, or their Lust, were craftily spoiled of all they had, and most commonly so disposed off as their Friends could never hear of them after. A certain privy Conveyance there was devised, to throw them down from these Tipling Houses into that blind Bakehouse, by which means many, especially if Strangers, were cast away. For being thus caught in the Trap, they were compelled to grind in the Bakehouse, and most of them never suffered to depart, but kept in perpetual slavery; their Friends believing that they were long since departed out of the World. It happened that one of *Theodosius* his Souldiers was thrown into this Hole; but being in the close Bakehouse, and by no other means able to procure his Liberty, he drew his Dagger, and slew such as stopped his passage, and the rest being afraid of their lives let him escape. The Emperor informed of all circumstances, grievously punish'd the *Mancipes*, and commanded these Houses which were the receptacles of Thieves to be demolished, and by this means freed *Rome*, the Queen of all Cities, from one very disgraceful thing. The other was this. If a Woman were taken in Adultery, the *Romans* used such a kind of punishment, as removed

l. 49. de Appellation. Cod. To. Albinus a Cod. Just.

l. ult. de Servis fugitivis. Cod. Just. l. 6. tit. 1. De sunt hae L. Albinus Romae. 8. Kal. Aug.

Socrates lib. 6. 18.

§. 4. removed not the Sin, but increased the Vice. For they shut her up in narrow “ *Stews*, and compelled her beastly without all shame to play the Whore; nay “ they procured a noise to be made with some sounding Vell, while the Deed “ was doing, that the Neighbours might know it, and that by that tinkling Sound “ all might be made privy to that filthy and shameful kind of Correction. The “ Emperor hearing of this horrible Custom, thought it was by no means to be suf- “ fered, but the *Scitra* (so the Baudy-Houses were called) he commanded to be de- “ molished; and made other Laws for punishment of Women taken in Adultery. “ And thus was *Rome*, by *Theodosius* his means delivered from these two foul and filthy Abuses.

A.D.
389

81. But as for *Socrates* his later story concerning the Adulterous punishment of an Adulteress, there's not any thing in Antiquity that bears Testimony to it: not any Footsteps of such Law or Custom at *Rome*, where the *Julian* against Adulterers, *Baronius* tells you, was always vigilant and Vigorous: only one Custom, he saith, there was in his Days in several Places in *Italy*, to decide with such tinkling Sounds the Marriages of such Widows as entred the second time into the state of Wedlock; as in some places of *England* they are wont to make ridiculous those Wives that beat their Husbands. For the former, concerning the Bakehouses and the *Mancipes*, it is very true, that the Overseers of these publick Houses went under this Name, as well as others, that belonged to the publick Baths. And as he makes mention of *Theodosius* his punishing the *Mancipes*, by which punishment the Body of them might be dissipated, and a Want follow of such as were to execute that Charge: so at this very time we find a Law made by these two Emperors for recruiting or filling up the Body of the *Mancipes*, which must suppose such a Want. It's dated at *Rome*, and directed to *Albinus* the *Prefect* thereof, and therein they command, “ That whosoever by surreptitious Rescripts contrary to former Laws had obtained dismissal from this Service, or lived idle in any lesser, “ or more inconsiderable Bodies, or Companies, should be forced to undergo this “ Function; there being no need, I suppose, of any new Command for forcing back such as were run away, or had deserted the Charge upon that Persecution which fell upon them, if so they did. And this Law might very well seem to have relation to this story of *Socrates*, if some other Circumstances did not rather incline us to another Interpretation. By *Mancipes* are meant in Law-books and others, not only these publick Bakers, but, as we said before, such as had the Management of the publick Baths and of Salt-pits; and it happens so direct for the Interpretation to go for them, that *Symmachus*, who was *Prefect* of this City four or five years before, hath an Epistle still extant, directed to *Theodosius* himself, wherein he makes Relation that these very *Mancipes* of the Baths, from a great number, being reduced to a very few, and not possibly able to undergo the Burthen, obtained upon their Petition, that such as had been excused by Decree should be returned back, and other Supplies be made out of other unserviceable or idle Companies without delay.

Ad Ann. 389.
no. 59.

L. un. de Mancipibus. Cod.
Th. lib. 12. tit.
16. Dat. 18.
Kal. Septemb.
Abest. a Cod.
Just.

Lib. 10. Ep. 58.

82. This Rescript being pleaded; those that by Decree had been dismissed from their Company, alleaged that they were protected also by the suffrage of *Macedonius* (who bore the Office of *Comes Sacr. Largitionum*, under *Gratian*, *Valentinian* and *Theodosius*) and they procured a Relation of these their Pretences to be made. Now *Symmachus* tells the Emperor, that it's only in his (or their) power to rescind Rescripts unjustly procured. But, still the defect continuing, they called also the *Navicularii* that were obnoxious to the bringing of Wood for the service of the Baths, to undertake their Charge, that both Companies together might support the Burthen the better. But they chose rather to deliver up some of their Body, than to joyn together unanimously in the Work; and these being willing, it was so wrought, that certain Persons were joyned with the *Mancipes*. Now he tells him, the publick Cause required his delivery of his Judgement therein, lest by Instruments clandestinely procured, an whole Company so serviceable should be reduced to nothing. He adds, that with the Relation he had sent the account of what was transacted, about their Affair who pleaded the Judgement of *Macedonius*; as also what had passed before himself in relation to the *Navicularii*, their addicting some of their own Body to the *Mancipes*. And concludes with telling him, that it is his work to revoke the Priviledges of those whom their own ambitious Practices had discharged: and to cut off all access to his Person from such as would petition to be disingaged from that Service to which their own Company had adjudged them. This Epistle is so direct to the Interpretation of this Law, that

Sect. 4 it seems to have taken away all thoughts of its having been made in reference to the *Bakers*. These *Mancipes* of the *Baths* had also the Charge of the *Saltpits*, which were in the eleventh Region of the City, near to the Gate called *Porta Tergemina*, and they received the Profit or Advantage of them; which Privilege, for their Incouragement was confirmed to them by *Valentinian*. Therefore are they indifferently termed *Mancipes Thermarum* and *Salinarum*; and, as *Jurctus* observes, they were under the Disposition of *Macedonius* as *Comes Sacrarum Largitionum*, the business of Salt belonging to his Jurisdiction. Yet the Oversight of the Baths, or other publick Works of the City belonged to *Symmachus* the Prefect, whose course of procedure in his Office is much illustrated by his Epistles. But we see by this and other of his Addresses in this Nature, that though *Theodosius* was distant at *Constantinople*, yet the great Officers had recourse to him in matters of Consequence, probably the more because of the Minority of *Valentinian*, whom we may believe he assisted in making Laws and other Acts for the good establishment of those Countries he had again subjected to his Command, whilst yet he remained in these Quarters. A.D. 389
in Ep. Sym.

The Emperors restrain malicious Accusations upon pretence of Magick.

83. But however, the Law concerning *Mancipes* might be intended; whether in Order to that Chastisement of *Bakers*, of which *Socrates* writes; there is another extant which made up part of the same Constitution, being of the same Date, and directed to the same Person, and tending also to the correction of Manners. We have already spoken how greatly the Art of Magick was abhorred in this Age, especially in the Days of *Valens*; how the Practice thereof was esteemed next to that of High Treason, and the Practisers themselves were reckoned for no less than Traitors and publick Enemies. Now it being a thing sufficiently known, that it was lawful to kill a publick Enemy or a Traitor to his Country, who might be dispatched by the Hand of a private Person wherever he met him; this gave incouragement to several sorts of Persons to serve the ends, either of their selfish Designs, or their Malice, upon those that were commonly and notoriously infamed with this Crime. For some there were who were guilty of it themselves, and when they feared to be discovered by those that were (possibly) not so much to be blamed as they, to avoid accusation, they began first, killed the Party, and thereby evaded that punishment, which was most deserved by themselves. Others upon private Spleen and Malice, for satisfying of their private Revenge took this course to be rid of those they most desired to have out of the way. The Emperors now at *Rome*, taking notice thereof, command *Albinus* the Prefect, "That, whosoever shall find any Person guilty of this Crime, he shall seize, and presently bring him forth, and subject the Enemy of the publick Safety, to publick Judgement. And especially they lay this Injunction upon those called *Agitators*, or the Chariot-drivers of these times, who ran Races in the Cirque, and were wont to be guilty of this Crime, even upon this double account: For, this sort of men is wonderfully belied if they did not practise the Art of Magick to obtain the Victory in those Races. And hence they were wont to accuse and kill first, that they might not be discovered; and also to brand their Adversaries with this Crime, and render them Infamous; that removing such out of the way, as they thought most Expert in the Art of Driving; they themselves might win the desired Prizes in the Cirque.

L. II. d. 1. de
leficis &
thematic.
Th. & L.
Cod. Just.
tit.

84. That these men were wont to use Inchantment for obtaining the Victory in Courses, by hindring the Speed of those that were to run against them, and intercepting one way or other the Swiftness of their Horses; as also by breaking the Wheels of the Chariots, or the Legs or Necks of the Riders or Horses, is sufficiently testified by several Writers, as *Ammianus* and others. Now, if any of these *Agitators*, or any others of what sort soever shall offend against this their Injunction, or "Clandestinely kill any Person, though manifestly guilty of the Crime of Magick," they pronounce he shall not escape Death himself, as suspected guilty of the Inducements we now mentioned, viz. that, he either had removed a Malefactor on purpose, that he might not discover his Associates, and so escape his due and severe trial at Law, or under pretence of this publick Justice, had destroyed his own Enemy, and that out of a more malicious Design. The Hands of the Emperors now being in, and they setting themselves to promote the Conveniences of the City, where they at present resided, especially in relation to Victuals; the condition of the *Suarii* was represented to them, who found Hogs-flesh for it, as we have already shewn. They being a Body Politick among themselves, had several Lands belonging to them, conferred several ways upon their Company, for the Carrying

Vide ap.
Goth. in

L. 9. de
rim. Cod.
14. tit.
Apost. a
Just.

on

sect.4

he Empe-
rs ordain fe-
ral things in
lation to the
arii.

on of their Service, as divers other Incoüragements granted them by Princes for this End. But these Lands, though destined to publick Ends, yet (as we find at this day in every place) were imbezeled, and by private persons drawn to their own Use and Accommodation, by various Tricks and Sleights of Law. "The Empe-
rors Command *Albinus*, to whom they give the Title of His *Sublime Eminence*, "either to recover these Lands to their due Use and Designment, or else to force such "as were Possessed of them to undergo that Charge and Service which by Right was to "lye upon the owners; For indeed these Lands were so destined to that Service, that "they could not be transferred to other Uses. And they affirm it a Matter both of "Equity and Law, that the Kinsmen, and *Originales*, as they terme them, or the Sons "and Posterity of the *Suarri*, being by their Blood and Original obnoxious to the "Function, be also forced to the Charge. This Order or Edict was directed to *Albi-*
mus on the Eighteenth of *August*; and eight days after, he was served with another "Constitution in behalf of the same Company. Herein the Emperors signifie, that "they had it represented to them, how that being put to much labour and toile for the "benefit of the People of *Rome*, the Emperor *Gratian* had thought it fit, that they "should not be subject to sordid Employments. They therefore command his Illu-
strious *Authority* (so they terme him) to maintaine the Authority of the Imperial "Constitutions, and with Competent Threatnings to be urgent with his Officers to "put in force what undoubtedly had been before Decreed, and never had been nul-
led by any Repeal. Now what the Functions or Services were, which went un-
der the Name of *Sordida Munera*, we have already shewn, neither is this of *Suarri* to "be reckoned in their Number.

A.D.

3 8 9.

L. 6. rod. tit.
Cod. Th. & L.
1. Cod. Just.
rod. tit.

They remove
from Rome to
Valentia.

85. The Emperors, while they were in *Rome*, further took care against the A-
buse of the Aqueducts of that City, and then their leave of it, (after about three
Months stay) on the first of *September*, and came to *Valentia*; not that City of
Italy situate among the *Bruttij*, but probably another Town lying near to *Brundu-*
siun. Hence bears Date on the third of this Month another Edict directed to *Cesa-*
rius, the *Magister Officiorum* of the East, the same that was sent by *Theodosius* to *An-*
*tioc*h upon the occasion of the sedition raised in that City. "Whereas four sorts "
of Military Men, who were wont to travel, and be sent to and fro upon pub- "
lick Errands for defence of the Empire, viz. The Inferior and Lesser sort of Co- "
mites, who were destined for the Safeguard of the Limits, the *Tribuni Militum*, the "
Domestick Protectors, and the *Agentes in Rebus*, were indulged so far as to make "
Use of the Vehicular Course, or the Publick Waggon; this *Theodosius* prohibits "
for the time to come, and for their greater Speed and Dispatch will have them have "
Horses only allowed. And that therein they be not too burthensome, by requiring "
too great a Number of these Horses, he assigns how many shall be allowed to each "
Rank, viz. to the *Comites* Four besides a Sumpter; to a *Tribune* Three, and to the "
Domestick Protectors, and the *Agentes in Rebus*, but Two a piece: And of this he "
will have the severall Governours of Provinces to take care. *Valentinian*, about the "
same time, had a desire to reward and incourage such as faithfully served him in his "
Scriniis, for he ordered by an Edict directed to *Constantinus* the *Præfectus Prætorio* of "
Gall, "That in the presence of the ordinary Judges, or Governours of Provinces, "
they should enjoy three sorts of Honours or Privileges: The first of these was, "
That they should be admitted to Salute or receive a Kiss from them upon occasion, "
when they met them. The next was, of Coming freely into their *Secretaria* or "
Courts of Justice when they pleased; which none but such privileged Persons "
could do, except they were sent for by the Judge, or had business depending. And "
not only will he have these *Scriniarii* enjoy this Honour, but also liberty of sitting "
with them upon the Bench, when they shall so please. The reason he gives for it "
is, because such had liberty to come into the Prince his *Consistory*, and therefore "
might well be admitted into the *Secretaria* of the ordinary Judges, viz. the *Consu-*
lares and *Præsidents*, for of such the Law makes mention; and therefore those Go- "
vernours, which by Degree were *Specstabiles*, as *Proconsuls* and *Vicars*, are not "
hereby to be understood. So great Respect did *Valentinian* bear to these his Officers; "
though the same Honour was also given to others, as to *Domesticks* and *Protectors* at "
another time. In case there was an Omission of this Civility; he imposeth a "
Multa of three Pounds of Gold upon the *Princeps*, *Comicularius*, or other Heads of "
the Office of the ordinary Judge, to whom it seems it belonged to introduce Persons "
to the Ceremony of the Kiss, and into the *Secretarium*.

L. 5. de Aquæ
ductu. Cod.
Th. l. 15. tit.
2. & L. 3. Cod.
Just. rod. tit.
hinc & ex seq.
interpolata est.

L. 49. de cursu
publ. Cod. Th.
lib. 8. tit. 5.
Abst. à Cod.
Just.

L. 5. de Proxi-
mis &c. Cod.
Th. lib. 6. tit.
26. & L. 2.
Cod. Just. rod.
tit. & l. ult.
Cod. d. Offici-
div. Judic.

Where they
make Edicts
for the Ease
of the Cursus
publicus.

and in favour
of the Scri-
varii.

89. This Law was not Dated, (as the Copies corruptly have it) but Received at
Triers on the eighth day of *November*; for the Emperors from *Rome*, by the way of
Valentia

Sect. 4.
The come to
Milan.

Valentia and *Forofaminum*, removed to *Milan*, where, by the Subscription of another Law, we find them on the six and twentieth of this Month. Thence also they gave out an Edict on the seventeenth of *December* following, to *Tatianus* the *Præfectus Prætorio* of the East, (the Successor of *Cynegius*.) commanding him to write to the *Magister Officiorum*; under whome served such as were said to be in the "*Militia Magisteriana* or *Scholaris*"; as also to the *Comes Sacrarum Largitionum* and "*Comes Rei private*, under whom were the *Militia Palatina*, that all such *Curiales*, or obnoxious to Corporations, as had crept into Employment under them, should be rendred back to the Services of the respective Bodies from which they came; which is rationally thought intended for the relief of the City of *Antioch*; for under this *Tatianus*, as appears by an Epistle of *Libanius*, directed to him, was a message sent to the Prince for supplying the great Want there was in the Court of this Corporation. The *Francks* about this time making new Deprædations in *Gall*; *Arbogastes* thought such Insolence was not to be endured, and therefore put *Valentinian* in mind, that they were to smart for it, except they made satisfaction for such mischief as they did the preceding year, when they defeated the Legions; and delivered up the Authors of the War, in whom their perfidiousness should be punished. After a few days he went to them himself, and had Conference with *Marcomeres* and *Suno* their *Reguli*, of whom he required and obtained Hostages, and so returned into his Winter-Quarters to *Triers*.

A.D.
385
L. 19. de l.
reticis Cod.

L. 120. de
curionibus.
Th. Absit à
Cod. Just.

Valentinian
takes care for
the safety of
his Person.

87. The CCCXC. Year of our Lord had for Consuls, the Emperour *Valentinian* the fourth time, and *Neotherius*. The *Præfectus Prætorio* of the East was *Tatianus*; of *Illyricum* and *Italy*, for some time, *Polemius*; and afterward *Flavia-Valentinus* and *Neotherius*. The two Emperours continued at *Milan* together till towards the Month of *August*, where they made several Orders directed to the Officers of both their Districts. "*Valentinian*, as if he had some jealousy or apprehension of what shortly after befell him, to avoid the treachery of those that were near about him, commanded *Severus* his *Comes* and *Castrensis*, that none should be admitted to Attendance about his Person, but those that had first his own approbation. The Governours of Provinces were now very liberal of the publick Purse, in raising publick Buildings, with design of fixing their own Names to the Walls, and thereby to gain Fame, and perpetuate their Memories; which being found to exhaust the Treasury; the Emperours, by one Constitution, though directed to two Persons, *Viz.* *Albinus* the *Præfect* of *Rome*, and *Polemius* the *Præfectus Prætorio* of *Italy* and *Illyricum*, command that no New Works be raised, either in the *Ætternal City*, as they term it, or in any other. This they enforce by a triple Penalty, whereof the first is, that such Judges or Governours, shall be obliged to perfect such Works so rashly begun, at their own Charge; the next, that no allowance shall be made of any Sums of Money to the Casheers that laid it out upon such Uses; besides, a Fine of Ten Pounds of Gold they lay upon such Judge and his Office that so offend. We have formerly said, That in Case the Revenues of the most eminent City of any Province did not suffice for the maintenance of its publick Buildings, it was to be supplied out of the Incomes of those that were of a lower rank. But this liberty and Indulgence had given occasion to unreasonable men to require and exact more than was convenient, and when there was no need of Assistance from other places; which caused *Valentinian* now to qualify that Licence, which formerly had been in Charity given in this kind, so as no Contribution should be made, except all the Revenue belonging to the Principal City itself and destined to this Use were exhausted; and then too, the Emperour himself should be informed both of this Supply, how much it was, how laid out, and what was effected by it. *Theodosius*, about the same time, was advertized from the East, of great havock made in the Estates of Infants and Minors, to whom their Mothers were Guardians; For they marrying again very commonly, their second Husbands reckoned on all as their own, which they could make (right or wrong) out of the Goods and Possessions of the Children. To prevent this mischief for the time to come, he prescribed now to *Tatianus* the *Præfect* six Rules, according to which either Mothers or other Persons should be assigned Guardians. "That the Tuition should be committed to them, and by Name. That they should not be forced to it, but be assigned Guardians upon their own seeking. But not Confirmed in that Charge till they had Ingaged in Court that they would not marry again. Neither should any be admitted to the Tuition, except they themselves were of full Age, or twenty five years old, it being unreasonable that they should manage the Estates of others, who could not transact in their own behalf. Neither yet in the next place "

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rio Coss.

L. 12. de P
latinis S. L.
R. P. Cod.
lib. 6. tit. 3

L. L. 26. 2.
28. de Operi
bus publicis.
Cod. Th. lib.
15. tit. 1.
Absit à Co.
Just.

They forbid
the raising of
New Works.

Restraint
Contributions
made to greater
Cities.

Take care for
Orphans.

L. ult. de Tu
tor. Cod. Th.
lib. 3. tit. 1.
L. 2. Cod. Ji
Quando mul
tutela Offici
fungs potest.
descripta est.

§4.

place should their Request be granted, except there were failure of another law-
ful Tutor, whether such by Succession and Kindred, or assigned by the Testament
of the Parent. If there wanted such an one, or if he was excused by Privilege,
was removed as a suspected Person, or was found by reason of some Infirmary of
Body or Mind not fit to manage his own Estate, then might the Mother be ad-
mitted upon her Desire being a Widow. And lastly, in Case she married after-
ward, the Estate of her second Husband should (by a tacite Right) be ingaged
to answer and make good the Interest of the Minor. Such were the Terms on
which *Theodosius* would admit of Mothers to be Guardians, the strictness of which
was altered in aftertimes, so as the Grandmother might be admitted as well as the
Mother: But at this day, there's no need she should desire the Employment, or be
confirmed in it. And both Mother and Grandmother are preferred before the *Tu-
tores Legitimi*, or those of the Kindred, though not before such as the Testaments
of the deceased Parents had assigned. A Change of Laws following the Mutation
of Manners.

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straine the
moderate
privileges of
nators.

88. Great Men, that were obnoxious to their Creditors, would pretend they had
greater Immunities than the safety of the Publick would permit they should; so
so that it was uncertain in what place they could be Sued. To clear this Point, and
that both they, and those they gave Cause of Action to, might be in some certainty,
the Emperours now declared, "That in respect of their Dignity, the Residence of
Senators ought to be supposed to be at the most Sacred City, meaning that of
Rome, or *Constantinople*. But withall, they tell the Senate, that in pecuniary Cau-
ses, whether they dwelt in the City or near unto it, they should be convened in
the Court, either of the *Præfectus Prætorio*, or the *Præfect* of the City, or of
the *Magister Officiorum*, if he received their Order for it; but in the Provinces
they should answer, where they fixed their Habitation, or where the greatest part
of their Estates lay, and they were commonly resident. To be sure *Constantino-
ple*, at this time, was much enlarged by the Care and Munificence of *Theodosius*,
and thereby afforded much conveniency of living both to Senators and others. The
place where it stood, or *Byzantium*, had been inhabited in former Ages, and, as we
formerly shewed, was considerable in the World in respect of its Scituation and
Wealth. And therefore, we perceive, in digging and laying the new Foundations,
many old ones were discovered, and not seldom, Treasure was found hidden or lost
in those places where they had occasion to open the Ground. Hereupon much
Envy and Contention followed, those that could not have the same good fortune
themselves grudging that of their Neighbours, and pretending to intitle the Empe-
ror to it as his due. *Theodosius*, to obviate all such Informations, and to encourage
Builders, as it seems, had Ten Years before declared in an Edict directed to the Peo-
ple of *Constantinople*, "That whosoever found any hid Treasures, Jewels, Me-
dals, or the like, laid there in Ancient Times, and the Owners whereof could not
be knowne, should have and freely enjoy them, without fear of any Information
or Trouble thence arising in his Exchequer. But, as he saith, he then thought
fit, out of Natural Equity, to add some Temperament to this Indulgence, so as
he, who found the Treasure in his own Ground, should have it freely and abso-
lutely to himself; but he that found it in another Man's Ground, should admit the
owner of the Soil to a fourth part of the Value. And he prohibited that any
should make use of this Licence to dig when they list in other Mens Lands, or
pretend a fame of any thing to be therein hidden."

1. 8. de Incoe.,
C. Cod. Jus.
lib. 10. tit. 39.

L. 2. ubi Sena-
tores vel dia-
cessimi civili-
ter vel crimi-
naliter conve-
niantur. Cod.
Just. lib. 3.
tit. 24.

to find de-
clines Con-
cesses a-
finding
treasure.

Vide omnes
leges tit. 2.
Thesauris Cod.
Th. lib. 10.
tit. 18. &
Goth. Com.
Absunt omnes
à Cod. Just.

89. By the antienter Laws made by such Emperors as were too much addicted to
the increasing of their Revenues, whatsoever Treasure was found, though in a Mans
own Land, was adjudged to the publick Treasury. So it stood before the Reign
of *Nerva* and *Hadrian*; but *Nerva* granted it freely to the Possessor of the Land,
and so did *Hadrian*; following Natural Equity therein; and so the Law stood under
the Governments of *Severus* and *Antoninus Caracalla*; under *Heliogabalus* Alteration
seems to have been made, which that excellent Prince *Alexander Severus* again re-
formed; yet so as if the Treasure was great, he ordered his own Officers to go some
share with those that discovered it. After his time it was again adjudged to the
Treasury, though found in the Land of the Discoverer till the days of the Empe-
rors *Carus* and *Carinus*, who again left it free as before, till at length under *Diocletian*,
Maximian and others, it was again appropriated to the Exchequer. *Constantine*,
when he came to the Government, took a middle course betwixt the two former
which had so perpetually varied, and ordained, That if any discovered Treasure,
and of his own Accord revealed it to the Officers of the Treasury, he should have
half

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half of it, & be free from all manner of Trouble or Prosecution, there being reason to trust such an one as of his own accord had made the Discovery. But if any Person found such Treasure, and not revealing, was convicted of it, he should by no means enjoy the former favour. After *Constantine*, as Christianity took greater Root, so greater Liberty was Indulged, as by that Law of *Theodosius*, which ere now we mentioned, whereby whatsoever Treasure was found in any Mans Ground, it should be his own, were it never so great, or with whatsoever Character it was Stamped; for as *Alexander Severus* excepted the greater Treasures, so it is noted of *Tamerlane*, That such Coins as bore the stamp of a King he ordained should be Confiscated. Some indeed have been of opinion, that all Treasure exceeding the Fortune of a Private Person should belong to the Prince, as in *France*, some think at this day the Treasures of Gold to belong to the King. Indeed the Governour of the Low Countries, when not long since the Sepulchre and Treasure of *Childerich* King of the *Franks* was discovered, seized on it in the Kings behalf, but gave, as it's said, the value of it to the Poor of *Tournay*, where it was occasionally found. But further to encourage the Finder, or rather the Building of *Constantinople*, *Theodosius* gave three Parts of four to him that shall discover any in another Man's Ground, and only the Remainder to the Owner of the Ground; although at this day in *France* it be equally distributed betwixt the Owner, the Finder, and the Prince. But this he interprets to be understood only of accidental finding, for he will not permit upon this occasion, that any one search another Man's Ground, under pretence of presumption or fame of any thing to be there hid, or that the Common People did believe that so it was, pretending the Place to be haunted, as it was ordinarily believed that Spirits were wont to watch about Treasure. Thus much, as we said, did *Theodosius* Decree in an Edict published Ten Years before to the People of *Constantinople*, which now by another directed to *Neotherius* he confirms in these words. "We permit, that those who, either by the Revelation of the Divinity or Conduct of Fortune, do find any Treasure, enjoy what they found without all fear for so doing. The ordinary Speech concerning the Conduct of Fortune, as a Christian Prince, he mitigates with the Providence of God, as *St. Augustine* corrects it upon another occasion. The Heathen also ascribed the finding of Treasure to the favour of their Gods, and particularly imposed this Taske upon *Hercules* and *Mercury*, and for this purpose they offered Sacrifice, and consulted their Magicians. But this, as *Theodosius* seems here tacitely to disallow, so *Justinian* afterward forbad that any, by Sacrifice, or any other course odious to the Laws, should go about to seek for Treasure; which when found, he left intirely to the Owner, who found it in his Ground. Though after him it became again Confiscated, and such was the practice of the *Goths*.

90. At this time were the Emperors so severely bent against such as made forcible Entries upon the Lands or Possessions of other Men, as *Constantine*, for very great reason, formerly had been, "That such Slaves as should be convicted to have done such violence, by Witnes, or their own Confessions, should, if they did it, unknown to their Masters, suffer death. If they did it for fear, and at the Instigation of their Lords, they then declare it evident by the *Julian* Law, That such Lords shall incur Infamy, and enjoy no Privilege of their Place or Dignity; that is, if they were Persons of Place and Dignity, if not, they should incur the Loss of Life imposed by the Constitutions of Princes, though not by the *Julian* Law; as also such as should after this be convicted to have committed the second offence; and their Slaves that obeyed their Commands be condemned to the Mines. And in the last place, they inflict the pain of great Infamy upon that Judge that shall presume to Omit, Defend, or Lessen the Punishment of any Person so Convicted. Afterward *Valentinian* the Third required the value of the Injury unpunished by so negligent a Judge to be levied when he went out of his Office, and *Athalarich* King of the *Goths* commanded him to be deprived of his Girdle, and forfeit so much to the Treasury, as the Enterer by force had caused detriment to the Invaded; so hateful was this Crime of Violence to Christian Princes; more than what the *Julian* Laws expressed. "In those times of War and Danger they shewed themselves indulgent to the *Primicerius* of a Fabrick or Forge, vouching to him not only Vacation or Freedom from Service after two years, but also the Liberty of Adoring their *Aeternity*, as they terme it, or the Purple amongst the Protectors. But they thought fit to restrain the Office and Employment of the *Curiosi* also about this time, ordaining that they should be only chosen out of the *Agentes in Rebus*, as more resolute Persons than the Officers of the *Præfects* or *Vicars*,

that

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Eos qui in-
dente Ner-
vel ducent
tuna, Tuna
repererint.L. 4. de
Publica
Lib. 9. tit.
L. 8. de
Just. cod. de
Dat. ad
nam.
P. u. pro
Non. Mart.
Medio.L. 3. de
censib. con-
lib. 10. tit.
L. 2. de
Just. cod. de
Dat. 8. de
Mort. An-
ad Ruffin.
Mag. Offi-
rum.

that one out of them should be placed in the most Eminent City of every Province, whereas formerly two had been employed in each Province, and his work should only be to look to the Use and Charge of the *Curfus Publicus*, who (and how) made use of it: so that it seems they were no longer now to be Spies or Discoverers. Great was the Care and Circumspection this year of *Tatianus*, the *Præfectus Prætorio* about the *Navicularii*, and the conveyance of Provisions by Water, which the Emperors by an Edict do Approve and Confirm, so that both their Sons, and those that succeed in their Estates when dead, by whatsoever right, shall be obliged to the same Function, and still continue in the Rank of the *Curiales*, so as no Privilege obtained from the Prince himself shall obviate or null the Force of this Constitution; but the Son shall also succeed to the Office and Employment of a *Curialis*. Now was *Theodosius* the Emperor at *Verona*, whither he removed from *Milan*, and there abode the two Months of *August* and *September*. At the later end of *November* we find him there again, where on the twenty third of *December*, to provide for the better Security of the Provinces, by a Law directed to *Polemius* the *Præfectus Prætorio* of *Illyricum* they prohibit that any Governor of a Province shall dare to come to the most August City, meaning *Constantinople*, without their Command. If it shall appear that any one offendeth against their Decree, they Denounce that he shall incur a Punishment suitable to his Contempt.

91. In the CCCXCI year of our Lord *Titus Fabius Tatianus* and *L. Aurelius Symmachus* had the Title of Consuls. *Tatianus* was still *Præfectus Prætorio* of the East: and *Flavianus* held this Office in *Illyricum* and *Italy*. The Emperors continued together at *Milan*, till about the Month of *May*, and there made three Laws, which are yet extant. The first was of Religious Concernment, and the second tended to the practice of Mercy and Compassion towards such Children as had been sold to satisfy the Necessities of their Parents. Although the Law of the *Romans* did not allow that Ordinarily and Regularly any should either Sell, or give to Pledge their Children; yet was it permitted them to do it in extream want or necessity, and that out of respect, as well to the one as the other. That in this Age whereof we now write, this was practised, appears from several Testimonies, and sometimes it was done to satisfy the Debts due to the Treasury. But though they were Slaves at present, yet was it not thought fit they should so continue, the several Emperors agreeing in this point, that they ought to be restored to liberty. But they differed in the manner of it. *Constantine* was of opinion, that the value of their service was to be paid, or another Slave to be delivered in the room of the Infranchised. This now *Theodosius* seems to repeal, commanding all such as for want of Victuals had been sold, to be restored to their former Ingenuity, as the term is, or Free Condition, without requiring any remuneration of price, which was sufficiently paid by the slavery of a Free Person, though continuing for never so small a time. This had been formerly Ordained by *Trajan* concerning such as were exposed, that they should be restored to Liberty, though the charge of their keeping were not defrayed. But *Valentinian* the third afterward, when a cruel Famine had raged in *Italy*, declared indeed, that such as had been sold in it should be free, but that the Buyer should receive the Value back with the addition of a part, so that he should neither repent of his Purchase, nor that Liberty should be lost. For if all hope of recompence was taken away; what expectation should there be that such charity would be practised? on the other Hand, If a necessity of Recompence were imposed, liberty the most inestimable thing in this life, would miserably be lost through that Necessity. *Justinian* approved best of the Law made by *Constantine*, and so did Princes vary in their Opinions according to the circumstances of times, and those Reasons and Arguments which they afforded: To be sure the sense of later Ages is most full of Mercy and Goodness, which since Christianity hath taken firmer Root and Settlement, forbids any to be made Slaves, or sold, though under pretence of Necessity, but to be relieved. And most full of Equity is that Law and Custom of our own, of putting such Children Apprentices, as we borrow the word, whose Parents are not able to keep them. So as we distinguish betwixt Service and Slavery, as well in point of time as to the quality of the Bondage.

92. From *Milan* *Theodosius* departed for the East, by the way of *Concordia*, where in the Month of *May* he made three Edicts in matters belonging to Religion, and came to *Vincentia* in the parts of *Venetia*, whence also bare Date three other Laws of Secular concernment. The first of these takes care for preserving

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the Rivers clean and pure, where the Legions lay incamped and were wont to drink, that no filth should be derived down into them, nor that the Souldiers should be obscene in shewing their naked Bodies in the Water; but if they would swim, they should do it towards the Mouths of the Rivers, and below the usual Incampings of the Army. This was agreeable to the Use and Custom of the *Romans*, who appointed the place of Swimming at *Rome* down and below the River, that so no Sordes or Filth might come down, and the Common *Poculum* (as a River is often called) might not be polluted. And, however Nakedness might be approved by the *Lacedæmonians*, who caused their Youth to Exercise without their Cloaths, as well Men as Women; yet amongst the *Romans* it was esteemed Immodest and obscene, *Ennius* accounting it the beginning of Naughtiness, to uncover ones self amongst the People. This Constitution seems principally intended for the *Francks* or *Germans*, who, as we have seen in the History of *Jovian* his Retreat, after *Julians* death, were very expert in Swimming, and therefore took much delight in that Exercise. And indeed the Law it self is directed to *Richomer*, under the Title of *Comes* and *Magister utriusque Militiæ*, or of both Horse and Foot; and with the Attribute of *Sublimis Magnificentia tua*. This *Richomer*, a Noble *Frank* by Birth, was very eminent at this time, both in respect of his great Command, of his Valour and Military Experience, and also of the high Favour he was in with the Princes of these times. We have seen how he was employed by *Gratian*, as *Comes Domesticorum*, and into *Thrace*, to the assistance of *Valens* with *Profluturus* and *Trajan*; and upon other Occasions. Under *Valentinian* he had now the place which this Law mentions, and upon the *Rhine* as it's thought. Under *Theodosius* he was designed *Consul* and employed against *Maximus* the Tyrant with good success, and with him he returned into the East, and was designed General of the Horse against *Eugenius* the Usurper, but died before the Expedition. Great kindness and Entercourse by Letters passed betwixt him and *Symmachus* the *Consul* of this year, as also *Libanius* the Sophist, to whom he was dear, as well upon the Account of his Pagan Perswasion in matters of Religion, as otherwise. And now of late his Memory hath been Precious to *James Gothofred*, that learned Commentator upon *Theodosius* his Code, upon the account of his Original, which in Favour to the French Nation he hath revived as much as he could, upon Occasion of this Law being directed to him.

The Emperors give Persons liberty to dispose of their Estates.

93. On the same day, the Emperors, who were still together, after Grave and Mature deliberation, thought fit to Repeal a certain Law, made of later times for restraining Persons from alienating their Estates. Of old by the *Roman* Law any one might freely alienate, except in certain few Cases, as appears by many Passages, even in the time of *Dioclesian*. But it seems that *Constantine* the Great was moved to change the Custom by some that more affected the prescripts of the *Mosaic* Law in things of this Nature, whereby the nearest a Kin might redeem and recover the Inheritance from such as were strangers to the Lineage. *Constantine* thought this *Mosaic* Rule consonant enough to Christian Life, and to have a share of Equity and Decorum in it, that though every man might sell how and to whom he pleased, yet the Kindred, Consort, or Joynt Purchaser or Tenant in Common might have the first Refusal, offering as much as another would give. And when the Seller should receive the same Price, Profit or Advantage, what Inconvenience could arise, but that a respect should be had to Kindred and Consortship? For, as for Kindred, great is the Dearness and Affection which is wont and ought to be betwixt those that descend from the same Ancestor; and it's a Seemly as well as Prudent thing, that an Inheritance be not alienated from an antient Family. It makes also for Advantage and Reputation of Bargains and Entercourse, that a consideration be had to Consortship. However the Emperors thought fit to repeal this Law, as a grievous injury, covered over, as they say, with a vain Pretence and Show of Equity or Honesty, so as they leave it free to every man to make choice of what Buyer he pleaseth. And *Justinian* afterward, or *Tribonian* rather, admitted this their Repeal into his Code, yet with this Proviso, or Exception: If any Law in Special prohibited any Person to use such liberty in the Sale. Which Exception is not added in relation to Kindred or Consorts, but to others in general terms. For both of old time and henceforth besides an acknowledged agreeableness that Relations and Consorts should be preferred, several sorts of Persons challenged a Right of Præemption; as persons that Inhabited the same Town; when Sale was made of a Debtors goods. He that was both Creditor and Kinsman should be preferred before a meer Creditor on equal terms, but a

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meer Creditor before a meer Kinsman: and of Creditors he who was most deeply concerned; moreover, Contracts begat a Right of Præemption, as also the Holding of Lands in that way, which they called *Emphyteusis*.

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94. In like manner, long after this and *Justinians* Law, by a Constitution of the Emperor *Romannus Lacapenus* the Elder, to five several sorts of Persons this Right of Præemption was allowed; if they were Partners and kindred; if they had any Society and Fellowship with the Seller. Sometimes the poor were preferred in buying the Possessions of the Rich, (which again was Repealed) a Neighbour before a Stranger, and at length by universal consent, as it were, all Laws and Customs again returned to this Centre, by two sorts of Recoveries called *Gentilium Retractus* and *Fendalis*. Hereby, though liberty was given to sell to any Person an Inheritance; yet might the next Heir at Law, as we say, or the Lord, retract and make void this Sale. And upon these foundations were built several Laws and Constitutions of *Saxons*, *Italians* and others, whereby the old Law of *Constantine* was restored, with various amplifications: and here in our own Country the Law of Fees and Settlements cut off from many Persons the liberty of disposing of their own Estates. But, as to our present business; the Emperors repealed the Law of *Constantine*, upon the suggestion, as it seems, of *Flavianus* the *Præfectus Prætorie* of *Illyricum* and *Italy* to whom it is directed, who indeed had the Esteem of a notable, and very wise man, but he was a Pagan, and therefore averse to any thing of *Mosaical* Laws, or of Christian Convenience and Honesty according to that Pattern. But by another Branch of this and the same Constitution (though now made another Law) they tell us that what they did herein was done not without long deliberation; and therefore they declare that no Person whatsoever, shall pretend Ignorance of their Constitutions, nor dissemble the knowledge of them, being so weighed by long deliberation. It's a most known and approved saying that, *the ignorance of Law excuseth no man*, part of which these premeditated or advised Constitutions made; as for *Rescripts* they indeed were of more private concernment, being Answers to such matters as were propounded to them for their Opinion and Determination, and yet such as have been entred amongst these Laws and registred in the received Books, being fitted to all other cases of the same Nature, have also the force of Law. And indeed this being at first intended to put in Execution the Constitution for repealing *Constantines* Law, that none might pretend Ignorance to it, or dissemble it, hath been afterwards applied to all other Constitutions of Princes so advisedly made. *Flavianus* was, as we see, *Præfect* both of *Italy* and *Illyricum*, and no wonder, *Probus* having been formerly both of *Italy*, *Illyricum* and *Africk*, and *Gall* was some time also under his care. And by *Illyricum*, whatever *Zosimus* or others have written, all *Illyricum* is to be meant, which was under the Empire of the East, and one Governor; till the death of *Valentinian* the Younger; after which it became divided into *Eastern* and *Western*, and the former fell to the share of *Theodosius*.

Vide Gothofr.
com. in L. Cod.
Th. & Notas
aliorum in L.
Cod. Just.

L. 2. de Constit.
Princip. &
Edit. Cod. Th.
lib. 1. tit. 1.
& L. 12. Cod.
Just. de Juris
& Facti Ignorantia hinc
translata est.

odofius re-
oves to
ilia.

here he
idles the li-
rry of Ap-
aling.

95. From *Vincentia*, *Theodosius* removed to *Aquileia*; whence he sent before him an Edict to *Proculus* the *Præfect* of *Constantinople* against the extravagant humour of appealing. Of old time it was lawful twice to appeal, because of the Diversity and subordination of Magistrates: as from the *Prætor* to the *Præfect* of the City, and from him to the Prince himself, but this being very dilatory in the Defendant, and many times defrauding the right owner of his Goods, at least deferring his enjoyment of them, he thought fit to bridle this liberty, by Ordaining that he who had already received two Judgements or Sentences in the same Cause, and both against him, should be forced to quit the said Goods, and the possession of them be transferred upon the other or adverse Party, till the thing should be determined.

L. un. de posses-
sione ab eo qui
hinc proce-
dit, transference-
da. Cod. Th.
lib. 11. tit. 38.
Abest. à Cod.
Just. dat. 16.
Kal. Jul. A-
quileia.

This punishment of transferring possession is otherwise imposed in case of Contumacy or Knavery, by the Laws. As it was lawful twice to appeal, so *Justinian* afterwards forbade it to be done the third time; but *Arthalarich* the *Gothick* King prohibited the second. It seems by the Inscription and Date of another Constitution, that *Valentinian* accompanied his Colleague thus far on his way Eastward. For on the same day we find another Edict directed from the same Place to *Migmillus* the Vicar of *Africk* (though not said to be received at *Hudrumetum* till the beginning of the following year) which was in his District. The Exactors, as they were called, or Officers of the Treasury, whose work it was to distrain on the Goods of such as were Debtors to the Publick, and to expose them to Sale, often covenanted fraudulently with the Buyers, to sell them under worth, and receive

L. 3. de Fide
& Jure Hastæ
col. Tenth.
1. tit. 17.

Sect. 4. some Profit themselves over and besides, or bestow them as Favour or Interest inclined them. *Valentinian*, to obviate this fraud, ordains, "That the Thing received in Pledge shall be prized before it be set to Publick Sale, it being Notified what Measure shall be taken of the Worth by Two Standards, *Viz.* the Quality of the Moveable Thing, or the Quantity of the Revenue. And, in Case it was found, that such Goods or Lands were sold at an under Rate, the Sale of them should be rescinded, as had been practised by the Ancient Laws in other Dues owing to the Exchequer."

A.D. 391

L. 16. Cod.
 Just. de resc.
 dend. vendi-
 tione. Dat.
 Kal. Jul. Aq.
 Acc. Id. J.
 Hadrumeti,
 Post Cons.
 tiani & S.
 machi VV

Thence to
 Thessalonica.

His Exploit
 against the
 Barbarians.

96. *Theodosius* in his way to *Constantinople* came to *Thessalonica*, where he found the Affairs of *Macedonia* in a great Perturbation; For, the Barbarians, who having been mixed with others in his Army, had revolted from him Three Years before, when he moved against the Tyrant *Maximus*, had betaken themselves to Lakes and Fenny Places; and, while he was busied in the Civil War, thence made Excursions, and Havock of all things in *Macedonia* and *Thessaly*, without Controull. But when the Fame of his Victory and Return arrived, they again betook themselves to their Lurking Holes, and Places of Security in the Fastnesses, whence they privily stole out by Night; and having made their Depredations, retired again, when Day appeared; so that the Emperor imagined they were Spirits and Apparitions, rather than Men. Being doubtful in Mind what to do, *Zosimus* tell us this Story of an Adventure he made, ill Consistent with that Sloth and Luxury he usually ascribeth to him. He made Choice of Five Persons to accompany him, to whom he gave in Charge, That each should take Three or Four Horses with him, that when one tired, another might be at Hand for the Rider. Making his Purpose known to none, with them in a Disguise he ranged about the Country, and when he wanted Refreshment, went to some Country-house or other to get Victuals. At length he came to a small Inne, kept by an Old Woman, and she received and entertained him Civilly with Wine, and other Conveniences; and here he was perswaded to lodge all Night. When he was retired into his Chamber, he espied a certain Man, who would answer no Questions, but seemed to have a Desire to Conceal himself. *Theodosius* hereat calls up the Woman, and asks who he was. She professes her Ignorance as to that Point; but confesses, that since the Report of the Emperors Return out of the West with his Army, this Man was wont to lodge at her House, to go out in the Morning, and be abroad all the Day, then at Night again to return as from Work, to his Supper and Lodging. He makes Use of her Information, and seizing the Man, Commands him to shew his Condition, and manner of Being, which he obstinately refuseth, though beaten, till he caused his Men to prick him with their Swords. and declared himself to be the Emperor. Then he confessed he was a Spie, sent by the *Barbarians*, that lay in the Fenns, to listen where he was, or what Places or Persons might best be set upon and overcome.

Zosimus lib.
 p. 771.

97. The Emperor presently caused his Head to be struck off, and going to the Army, which lay at no great distance, led it to the Place where he had learnt the *Barbarians* lodged, and falling upon them, cut in Pieces a great Number of every Age and Condition, partly drawing them out of the Fenns, and partly killing them in the Waters. *Timasius*, one of his Officers, admiring his Valour, desired his Favour in behalf of his Soldiers, who being starved almost for hunger, were not able any longer to indure the toile of drawing the *Barbarians* out of their retiring Places, that they might take a little Refreshment. He granted his Request; and the Trumpet Sounding to a Retreat, the Soldiers left off their Pursuit. But going to their Repast, and being now overcome with Wine, as well as Labour and Toil, they fell fast asleep; and the Remainders of the *Barbarians* having notice of it, with Swords, or such things as they had at Hand, fell upon them, and killed many, amongst whom, you must know, the Emperor himself had miscarried, and with him all his Army; but that some who had not compleatly dined, ran to his Pavilion, and gave him notice of what had hapned. The Emperor was disturbed at the News; but thought it best to run away, as he did with those he had about him. It hapned well for him and his, that *Promotus*, another of his Captains, whom he had lately sent for, meeting them in their speed, desired of him, that he would look to the Preservation of himself, and followers, and leave him to deal with the villainous *Barbarians*, whom he would sufficiently Chastise for their Contumacy. He fell upon them, and meeting such as yet hovered about to catch the Soldiers napping, he laid them asleep so fast, that few of them ever waked to carry any News into the Fenns of the Success of the Sally. Such were the Adventures that befell *Theodosius* in his Return, after the Defeat of *Maximus*, as *Zosimus* tells us; who, though he relates

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relates a Story, wherein the Emperor was admired for his Valour, yet keeps true to his Principle of adding a Sting to the Tail of his most Favourable Narrations. We can tell the Reader farther, That though *Theodosius* attempted fully to Suppress those Rovers by Force of Arms; yet finding that Course not fully Effectual, what he could not do by his Sword, it being too late, he was resolved to effect by his Pen. By this, he gives free Liberty to all the Provincials (of *Macedonia*, to whom the Edict is directed) to make Resistance against Soldiers or Private Persons; who by Night shall enter their Grounds, or lye in wait in the High-ways; and to kill them who had a Design to destroy others; it being better to prevent a Mischief, than afterwards to have ones Death Revenged. He Charges, that none spare that Soldier, against whom a Weapon was to be prepared as against a Thief. This he did very seasonably, the Provincials doubting, whether they might by Arms make any Resistance against these Thieves; it being declared for Law formerly, That no Private Man ought to levy War, without the Knowledge and Approbation of the Emperor; but in Case of Foreign Invasions, every Man became a Soldier against Publick Enemies. Being arrived at *Constantinople*, he found Complaints of such as had alienated their Lands, that they were still constrained to pay the usual Cesse, or *Capitatio*, for them. He Published an Edict to *Tatianus*, Commanding, That every New Owner of a thing of such Nature, should presently, after his becoming Possessor, cause his Name to be entred into the Register, or Cess-Book, for so much as he was become Owner, and to ingage to pay what was due for it, to the End that the old Proprietor might not be troubled for what was now out of his Hands.

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L. 2. ad Legem
Corneliam de
Sicariis Cod.
In lib. 9. tit.
13. & L. 1.
Cod. Just.
Quando licet
cautari, &
vindicare
vel publicam
devotionem.
Dat. Kal. Jul.
Ad Provincia-
les.

L. ult. sine
Censu. Cod. Th.
lib. 11. tit. 3.
Dat. 15. Kal.
Odob. Const-
antinop. Abest à
Cod. Just.

Theodosius at
Constantinople.

98. Shortly after *Theodosius* his Arrival at *Constantinople*, followed the CCCXCII. Year of Our Lord, wherein *Fl. Arcadius Augustus* the second time, and *Fl. Rufinus* were Consuls. *Tatianus* continued *Præfectus Prætorio* of the East till the Month of *July* or *August*, and then was succeeded by *Rufinus*: and *Apodemius* exercised the same Authority through *Illyricum*. *Theodosius* now again this Year shewed himself a great favourer of the *Curia*. Having formerly condemned Possessors of Lands (though by Bargain and Sale) to a Pension answerable unto them, and forbidden any Grounds, or Slaves, belonging to *Curiales*, to be sold without a Decree obtained for so doing; He now further ordained, " That in case a Man married the Daughter of a *Curialis*, if he paid no Service to the Court, and having no Children, was made Heir by her in her Testament, he should be forced to the Services of the Corporation. In like manner, if an Actuary were found to be the Son of a *Curialis*; though much favour was wont to be indulged to such, as those who in the Army passed the Accounts of the Souldiers, (what Pay was due to each, and signified what Arrears were behind, to the *Susceptor*) yet he must also be condemned to the Functions of these Courts. " Though at his first coming to the Government he had granted Immunity to all the *Curiales* from Stripes and Tortures; yet afterward he restrained it to Particular Persons; and now this Year again, doth he devest those called *Principales* of that Privilege, if so be these Men (who gathered the Tributes) were owing any thing to the Treasury. In Case they were solvent and clear, he allows it them by an Edict directed to *Potamius* the *Præfectus Augustalis*, whom he charges to see it performed under pain of a Fine to be incurred both by himself and his Office. It seems, that at this time there were Complaints made concerning the oppression of these Citizens by the Civil Officers, and well might it so happen, when they who were to relieve them, contributed themselves to the Grievance. For it appears they so did by another Edict directed to this same *Potamius* this very Spring, wherein he Commands, " That those called *Defensores* shall not carry themselves insolently or unjustly, but only do that Duty which their Name imports. That they impose no Mulcts, nor put any to Torture; but defend the Common People and *Decuriones* from the Insolency and Rashness of Bad Men; so that they may not indeed cease to be what they are called. As for Mulcts, the Rule in general was, That none by Law could impose them, but those to whom was committed publick Judicature, insomuch that neither a *Curator* of the Common-wealth, nor the *Procurator* of *Cæsar*, could do it; therefore neither could these *Defensores*, who were scarcely to be numbred amongst Magistrates; though, as the Emperours express it, they were in the stead of Parents to the Common People and *Decuriones*, and as their Children did protect them. " They are also here forbidden to examine any by Torture, being not in Capacity in those days as much as to Imprison, though afterwards this, in some measure, was indulged them. But the great Argument *Theodosius* useth for keeping them within their Bounds, is taken from

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Arcadio
Aug. &
Fl. Rufino
Cos.

L. 124. de De-
curionibus.
Cod. In. Abest
à Cod. Just.

L. 125. Abest
à Cod. Just.

L. 126. ut
Decurionib.
Abest à Cod.
Just.

L. 2. de Defen-
soriis. Civita-
tum. Cod. Th.
lib. 1. tit. 11.
& L. 5. Cod.
Just. cod. tit.
Dat. 3. Non.
Mart. Cui. It.

ikes care to
apply the Cu-reflecteth the
ravagan-
of the
infor...

Sect. 4

from their Names or Title of their Employment. He bids them only attend to, or Execute the Office of their Names; and to see only to this, that they may not cease to be what they are called. Thus are other Persons, in this and other Ages, frequently admonished to their Duty by signification of their very Names, as Bishops, Clerks, Philosophers, Monks, and Christians in general. But the *Ægyptians* seem most, of all other Nations, to have stood in need of this Admonition; of whom both the Writers of this Time, and more Ancient Days do testify, that they were turbulent, factious, light, and injurious; nay, so vain and inconsiderate in their extravagancies, as still to covet Innovations; and for this End they turned Ballad Makers, Libellers, Astrologers, Southlayers; and what not? And it is not improbable, that *Potamius* now going into *Ægypt* to take upon him the Office of *Præfectus Augustalis* in the room of *Hypatius*, had this Law, amongst other things, given him in his Instructions; which were usually drawn, as the present state of Affairs required.

99. As by this Edict *Theodosius* restrained these *Defenders* of the Cities from doing what was contrary to the Signification and Importance of their Name; so five Weeks after, abating one Day, he required more fully of others of them, what their Name Imported. For at this time, great Robberies were frequently committed throughout the Regions of the East; partly, because the Offenders were not sought after and punished, which gave them still Hopes of Impunity; and partly, because they had Men in Power, their Patrons, which bore them out in their Enormities. To prevent them, he requires, that *Defensors* be chosen out of the most honest and diligent Persons, which may watch against these Enormities. Such care did *Theodosius* take for defending his own Subjects of the East, from open and publick violence, and as we may conclude with good Success. Happy had it been for himself and his Colleague, could he have procured for him any such safeguard from Clandestine Attempts upon his Person. All this year we hear nothing of any Laws made by *Valentinian* in the West, which silence one might be a little inclined to take as an ill Omen; for it so hapned with his Brother *Gratian* in that which ushered in his dismal Tragedy. And this very Year was *Valentinian* found suddenly strangled in his Palace, as *Epiphanius* exactly notes the time; On the Ides (or fifteenth) of May, on Whitsun Eve, or the Saturday preceding it, and was carried forth the Day following, or on Whit-sunday, which was then the twenty second Day of the *Ægyptian Month Pachon*, the twenty third of the Greek Month *Artemisius*, and according to the Romans, the seventeenth of the Calends of June. Having been given to understand in Gall, that the Barbarians hovered over the Borders of Italy; to provide for the safety thereof, he had resolved to repair thither, and removed for that purpose to Vienna, thence to march, as occasion should serve, to the Alps. There was now with him *Arbogastes*, a Franck by Nation, who, by the Emperor *Gratian*, had been preferred to the Dignity and Power of *Magister Militum* in the next place after *Bauto*. *Gratian* being dead, by his Industry, and Kindness to the Souldiers, he obtained such Authority, for his Military Skill, and Contempt of Money, that he advanced himself to the Chief Command, even without the warrant and consent of *Valentinian*; and having got great Wealth, now in effect, exercised Dominion over him; so that he would contradict and hinder any thing by him ordained, if he so pleased, how just and prudent soever. The young Emperour hence conceived as great Indignation as the Importance of the thing Merited, but his Neck being thus yoked, nothing could he do, against one whom the great Favour of the Souldiers protected. Yet consulting now about the Expedition into Italy, and finding him again opposing what he designed, he could not contain himself, but drawing his Sword, attempted to kill him, which some of the By-standers hindred, by plucking back his Arm. Being asked why he suffered himself to be so transported, he answered, He would kill himself rather than be Emperor and not obeyed. *Zosimus* writes, that *Valentinian*, bearing this opposition most heavily, often set himself against him, but to no purpose. At length, not able any longer to indure to be subject to him, as he sat on his Throne, seeing *Arbogastes* come towards him, with an Angry Countenance, he reached him a Paper, wherein was contained an Abrogation of his Command; which having read, he told him plainly, That he neither gave him his Command, neither should it be in his Power to take it from him. Which having spoken, he tore the Paper, and casting it from him on the ground, went his way.

100. Things growing to this Extremity, *Valentinian* continued in a manner a Prisoner, and besieged by *Arbogastes*, who deprived him of his Royal Service and Attendance,

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Nomine sui tantum jun-
guntur officia.
Ut de tantum
quod esse di-
cuntur, esse
non desinant.
Vide Goth.
Com. in h. L.
Alexandri
& Antiochen
ab Antonio il-
laudent: Vi-
orum turbida
vulgo.

Utriusque & a-
mentis populi
male sana ta-
multa.
L. ult. de Di-
fens. Cod. 1o.
& L. 6. Cui.
Just. cod. tit.
Dat. 6. 1a.
Apr. Constp.

De Ponder &
mensur. Vide
Baroni ad h. A.

Vide Sigonius
de Occid. Imp.
p. 214. Zosi-
mum lib. 4. p.
774.

Valentinian
opposed by
Arbogastes.

Philostorgius

In Effect a
Prisoner.

Sect. 4. tendance, and reduced him to little better Estate than that of a Private Person, committing the Charge of the Army to his own Countrymen and Creating the *Franks*, and drawing off from him his Domesticks to such disrespect, that very few dared either to hold any familiar Discourse with him, or obey any of his Commands. In this Pressure and Affliction he sent to *Theodosius*, beseeching him to pity his Condition, affirming with an Oath, That if he did not speedily relieve him, he would make his Escape, and come to him. They in *Italy* now apprehending great Danger of an Invasion to be made by the *Barbarians*; *Ambrose*, the Bishop of *Milan*, was perswaded by the *Honorati* of that City to undertake a Journey to *Valentinian*, and desire his Presence in that Country. He readily yielded, but the Day following received some Letters, which acquainted him how the Mansions upon the ways were furnished, and preparation made, which signified, that the Emperor would speedily be with them; whereupon, with their Consent, he stopped his Journey. But this begat a Rumor, that *Ambrose* was coming, and upon what account; whereat *Valentinian* very much rejoiced, hoping, that by his means, the posture of his Affairs might be much amended, and when he saw he came not, he wrote to him, desiring him that he would hast into *Gall*, not there to preside in any Synod, but to initiate him by the Holy Sacrament of Baptisme. Indeed he had good hopes, that by his Authority with *Arbogastes*, (which the Bishop confessed afterward was great; so that had he been present, he could have sweetned Matters between them) he might draw him off to more moderate Councils; and having received his Letters, he presently put himself upon the way; but ere he had well passed the tops of the *Alpes*, he understood that he was murdered, which came to pass after this manner. *Arbogastes* was now so accustomed to Power, and his own Will, that he could not think of any thing but how to continue it. He had reason to think he had done already too much; and this prompted him still to do more, both to keep his Authority, and prevent a Reckoning, which else he could not but conclude he might make at last to his small advantage; for, fear of Punishment or despair of Pardon, usually produceth the greatest and last Enormity in Treason, and procures, that there is little distance betwixt the Prisons and Graves of Princes. There was then in Court one *Eugenius*, a Man so excelling in the learning of that Age, that he professed Oratory, and opened a School for such as would be instructed in that Art. He was exceedingly prized by *Richomer*, as a very Elegant and pleasant Person, and he recommended him to *Arbogastes*, with desire that he would admit him into the company of his familiar friends, as one who would stand him in stead, if ever he should have occasion to try his Friendship. He took his word, and after the departure of *Richomer* into the East with *Theodosius*, used him with so much Familiarity and Confidence, that there was nothing of Moment but he communicated it to him, and in all things asked his Advice.

101. Concluding, *Zosimus* tells you, That in respect of his great Learning, and the Gravity of his Manners, he was most fit, of all others, to make a good Emperor, he broke the business to him; But he was offended therewith, insomuch that he was put to the trouble of Comforting and perswading him not to reject so great things as now were offered him by Fortune. Having prevailed with him, he resolved that *Valentinian* was first to be taken out of the way before he could be promoted; and therefore as he lay at *Vienſa*, and was exercising some Souldiers near the Wall of the Town, he slew him, when he least expected any such Attempt. Some say, That he hired the Eunuches, that waited on him in his Chamber, to fall upon him, and strangle him, when he was asleep, or while alone he beheld an Exercise of the Soldiers from his Window, which done, they tied a Cord about his Neck, and hung him up, (as if he himself had chosen to dye by the Halter, and his own hands) to avoid the Suspicion of the Murder. To such an End came this young Prince in the seventeenth year of his Reign, counted from his Promotion, and the twenty seventh of his Age but begun; a Person of singular Hopes, and one of whom *Zosimus* himself speaks no ill at parting, though upon the Account of his Religion he could not bear him any good will, as we may see hereafter. There are certain Laws extant in the Code of *Justinian*, which bear the name of *Valentinian*, and his two Colleagues, Father and Son, which being not marked by any year, by reason of the Names of the *Consuls*, and their bearing no Date of any Day, cannot be assigned to any particular part of his Administration. Of such as are fit to be taken notice of in this place, one declares to *Potamius* the *Præfectus Augustalis*, That the Exhibition, or setting forth the *Cursus Publicus*, ought to be committed, according to the Custome of Places, either to the *Curiules*, the *Cohortales*, or those whom the most

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publ. l. 12.
tit. 51

Eminent

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Eminent *Præfects* appoint to that Charge, after sufficient Caution taken for their Fidelity. So *Tribonian* hath made up his Law; whereas that of *Theodosius*, out of which this is Interpolated, mentions only *Curiales*, which live at convenient Distance, and are sufficiently Rich, and otherwise fit. By another Edict it seems, that the Power of the *Præfect* of the City became questioned within his own District, whilst that of the *Præfecti Prætorio* was rampant still in those Days. For there stood need of a Declaration thereof, as appears by a Law directed to *Severinus* the *Comes Largitionum*, wherein is expressed, That all the several Bodies, or Companies in *Constantinople*, together with all the Citizens and Common Sort, shall be subject to his Government. But the *Præfect* of this City was but of late standing, and therefore might his Authority be more questioned. In those Days great Complaint was made of Husbandmen, such as were bound to the Service of the Place, their deserting their Work, and running away; which drew forth several Laws for the recalling them and their Children, and Prohibiting the Entertainment of them by other Persons. And now also, whether by reason of the Wars, which caused some to be difficult to inhabit, or because of the Barrenness of Grounds themselves, the Owners of them often forsook them, and the Tributes thence arising thereby failed. To prevent this mischief, these Emperors declared, "That in Case any other Persons would apply themselves to the Tilling and Manuring of these Lands, both for their own Private, and the publick Emolument, they would give them free leave so to do. But in Case the Owner of the Land came and demanded it within Two Years, he should be restored to his former possession, paying the Charge which the New Comer had been at in the Melioration of his Ground. If so be he were silent Two Years, he should be utterly excluded from all Propriety in the Thing; the Necessity of the State so requiring it."

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Vide Com. Colb. in l. 51. de Consu public. Cod. Th. l. 4. de Officio Præf. urbi. Cod. Just. lib. 1. tit. 28.

L. 1. de Colonis Illyricanis. Cod. Just. lib. 11. tit. 52. & l. 1. de Jugitibus colonis Cod. Just. lib. 11. tit. 63.

L. 8. de omni agro deserto Cod. Just. lib. 11. tit. 58.

SECT. V.

From the Murther of Valentinian the Second, to the Death of Theodosius the Great.
The space of Two Years and Eight Months.

I. VALENTINIAN being dead, though by such treacherous means, yet all kept silence at *Vienna*, out of respect to the Dignity of that Man who they knew procured it, and was in high Esteem with them for his Valour, and especially his Contempt of Money, which made the Soldiers to revere him. He presently declared *Eugenius* Emperor, which they also the better digested, because *Arbogastes* did it, and the Person himself promised much from the good Parts wherewith they knew him to be furnished. The new Emperor, or Usurper, conforming himself fully to his Will who had given him the Power, to strengthen that Title which he knew would be questioned, provided himself of a sufficient Power of Men raised partly out of the *Romans* or Natives of the Empire, and partly out of the *Galls*, or *Francks*, and secured presently all the *Gallick* Territories. But when the Rumor of the Murder of *Valentinian* flew further about, all Persons were therewith affected, as became them; and above all others *Theodosius* was exceedingly perplexed, grieving, that he had lost a Colleague, and an Allye, in the Flower of his Age, who had fallen into the Hands of Men, that could not but be alienated from himself, and such as were not to be despised, *Arbogastes* being Valiant and Bold, and *Eugenius* both Learned, and indued with other Virtues. This he both considered within himself, and let not to utter upon occasion; and yet he resolved once more to venture for all, and to make all Preparations possible for a War. He pitched upon *Richimer* to Command his Horse, having, upon divers occasions, had sufficient tryal of his Abilities, and upon several others, to have the Conduct of the Legions; but *Richimer* was taken away by Death, while as yet he deliberated upon the Expedition; and so he was constrained to betake himself to new Councils. In the mean time, that we may look Westward, the Sisters of *Valentinian* Redeemed his Body, and it was carried to *Milan*, there to be Interred. This, when *Theodosius* understood, he wrote to *Ambrose* the Bishop to see his Funerals performed;

Zosimus p. 776.

Eugenius declared Emperor.

Ric-meer maximè potens.

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performed which being done, he Composed a Treatise in his Commendation, and afterward published it, wherein this is considerable, That he affirms him young in Years, but as to Wisdom and Council, an Old Man.

his Character
of a *Valentinian*

2. Having declared, how much they of *Italy* were obliged to him, for his Resolution of hazarding his Person to preserve them in safety, he adds, That he corrected the Errors of his Youth, even before he had learned any. He was reported at first to be much delighted with the *Circencian* Games; but this Blot he so far wiped off, that even on the Solemn Days of the Nativities of the Emperors, and for the Honour of the Imperial Majesty, he thought not fit that they should be Celebrated. Some reported of him, that he was so far delighted with Hunting, and taken up therewith, that he neglected Publick Business; whereupon he commanded all those Wild Beasts he had made use of that way, speedily to be killed. His Ill-willers gave out, That he made too much hast to Dinner; which understanding, he betook himself to such a Course of Fasting, that most commonly he Feasted those about him, and eat nothing himself; thereby gratifying both Religion, and the Humanity of a Prince. There was a Report, that all the young Noble-men in the City were fain in Love with a Woman that Acted publicly upon the Stage; this Woman he commanded to be brought to Court. The Messenger was corrupted by Money, and returned without her; whereupon he sent another, that he might not appear to desire to reforme the young Noble-men, without Effect. Hence some took occasion to Traduce him; but when the Woman came, he never so much as looked on her, but commanded she should be had away; both that his Commands might not be disobeyed, and that he might admonish the Young Men to cease to be inamoured of that Creature which was despised by him, though he had her in his Power. And this he did, being unmarried; and shewed himself as temperate, as if he had been bound in the Bonds of Wedlock. After this he falls into this Exclamation: Who ever was so absolute a Lord over his Slave, as he was over his Body? Who ever was so severe a Judge of other Persons, as he was a Censor of his own Age? To what purpose should I speak of his Piety? who when Noble and Opulent Persons were accused before him of any Crime, and the Judge Assistant urged him to Severity, would answer, That no Bloody Act was to be Committed, especially on Holy-days. After this the Bishop laments, That he could not have timely Notice; that he might have interposed betwixt him and *Arbogastes*; whome he doubted not but to have drawn to Terms of Duty and Moderation.

Theodosius pre-
pares for War
against the
Usurper.

3. But to return to *Constantinople*, we there find *Theodosius* Vigorous in Preparations to Chastise the Usurper, and those that set him up; and that upon Principles of Honour, rather than what *Zosimus* suggests, as the great Incentive to this Undertaking. This Writer, as in former Passages, he makes him to have been acted by Women, and especially by his love to *Galla*, the Sister of the Deceased Prince; so in this his Design also he insinuates, That he was chiefly induced to the revenging of his Death by her Tears and Lamentations. He writes, That upon the News of it at *Constantinople*, she made a Noise, and disturbed all the Court with her Cries and Tears; whereas others place her Death before his at the Distance of no less than Two Years, or the CCCXC. Year of Our Lord. This hapned while her Husband was still in the *West*; and she was Buried by his Son *Arcadius*; and at the same time was Erected in the *Forum* of *Constantinople*, not far from the Church, a Columne, on the Top whereof was placed the Statue of *Theodosius* in Silver; as also that Year an Obelisk in the Cirque of the City. These probably were Erected upon occasion of her Death, and to her Memory, who left only one Daughter behind her, viz. *Galla Placidia*, of which Lady we are like to hear much hereafter. What Motives soever *Theodosius* had to the War, great Preparations he made for it both this and the following Year, which whether *Eugenius* was aware of or not, he sent away as Ambassador to him one *Rufinus* an *Athenian*, to know of him, whether he would Consent, that he should Reign together with him, or reject his Advancement as null and frivolous. In his Negotiation he took no Notice at all of *Arbogastes*, nor brought any Letters from him. *Theodosius* was wary, and used delays in his Answer, of which, while he considered, another Matter of Consequence fell out. When first he came to the Government, he admitted some Persons out of the Barbarous Nations to Friendship and Society in War, and sought to oblige them by Gifts and fair Promises for the future. The Chief Captains of the several People he Courted, and ordinarily admitted to his Table. Amongst these Men there was now risen a Contentions; for some of them were for breaking the Oath of Fidelity which they had taken when they were first received; and others of them Contended, that

A.D.
392.Vid. RAVEN
Annals. ad An.
390. num. ult.

ZOSIMUS.

Eugenius sends
to him to
know his In-
clinations to-
wards him.

Sect. 5.

He gives the
Messengers
good words.He takes care
for the Ho-
nour and
Safety of the
Civilians.He deter-
mines how
and when
Provincial
Councils
should As-
semble.

by no means their Faith was to be broken. Of the former Opinion was one *Prin-
ulfus*, who used Arguments to his Country-men, to Infringe their Oath, and *Fraus-
tius* was as Active in dissuading his from committing any such Absurdity. For a
long time nothing was known of this their Difference; but at last, being at the Em-
perors Table, and heated with Wine, they freely declared their Judgments, and flew
so high, that he put an End to the Entertainment. Being gone from Court, they
were so enraged by each others Words, that *Fraustius* drew, and killed *Prinulfus*; at
which sight, the Soldiers that were about them, were so nettled, that they had done
the like by *Fraustius* himself, but that they were hindred by the Emperors Guards,
which suppressed the Tumult. *Theodosius* having Notice of what had passed, made
little of it, but suffered them in this sort to make an End one of another. As
for the Ambassadors, he dismissed them altogether deceived with his Presents and
fair Words, and, after their Departure, applied himself to Military Prepara-
tions.

4. This while he did, he neglected not Matters of Civil Concernment, as appears
by several of his Constitutions. Upon the Courts of Corporations he still had his
Eye, upon the well Government of which depended the quiet of the several Pro-
vinces. As in the Schole of the *Domesticks*, there was one *Primicerius*, or Head,
whom followed Ten others of the Chief in Number; and as in the Great Senate,
there was one they termed *Princeps Senatus*, who was first asked his Opinion; so in
these Inferior Senates, there was one they called *Primus*; on whom now *Theodo-
sius* thought fit to confer the Honour and Degree of *Comes* of the Third Rank. “
Hereby he received Immunity from Tortures, and all Injuries, and possibly from all
Collations or Charges belonging to Senators; but still he will have him, for all this
Honour, bound to the Duties and Ties arising from his Birth, as still belonging to
the Body, of which he was a Member. There was need at this Time of extending,
though not this Honour, yet his Protection, to others of these Courts. For his Mi-
litary Officers, whom we find to have been much Cherished by him, out of respect
to the need he frequently had of them, were now exceeding high, and miserably op-
pressed the poor *Curiales*, especially those amongst them called *Principales*, who Ex-
acted the Tributes, and were to Protect the Country People; Beating and Tortu-
ring them at their Pleasure. This appears by an Oration of *Libanius*, Published by
Gothofred, which he made this very Year, as the Translator concludes, upon great
Presumptions. For now *Theodosius* took notice of this their Insolence, by an E-
dict directed to *Abundantius*, by the Title of *Comes*, and *Magister utriusq; Militie*;
wherein he Charges and Commands, That Military Men have nothing at all to do
with the *Curie*; nor meddle with that wherein they had no Authority: That no
Tribune, be he *Dux* or *Comes*, offer to beat, abuse, or touch any Principal *Cur-
ialis*, If any hereafter shall be so Rash and Inconsiderate, as to dare to do it, or in-
jure any of these Principal Men, he will have him know, that he shall incur a Fine
of Ten Pounds of Gold.

5. About this Time the Country of *Illyricum*, for that the *Barbarians* had been very
troublesome to the Provinces thereof, or for other Reasons, stood in great need of
holding Assemblies, to make known and redress their Grievs; but there was some
Doubt again, how they ought to be Called and Managed. To explain this Doubt,
we find two several Edicts Inscribed to *Apodemius* the *Præfectus Prætorio* of that
District, within the space of seven Weeks and less; the one bearing Date on the
Twenty Eighth of *July*, and the other of the Tenth of *September*. We have for-
merly told the Reader, how these Councils or Assemblies of the Provinces were ei-
ther *Ordinary*, (afterward by *Honorius* fixed to the Time Intervening from the *Ides*,
or Thirteenth of *August*, to the *Ides*, or Thirteenth of *September*) held once a
year, or else were *Extraordinary*, upon some pressing Occasion, which re-
quired some suddain help; when the Prince was to be sent to, or the *Præfectus
Prætorio*, who was next unto him. Concerning the latter Sort, or Extraordinary,
he seems now Consulted, and Answers, as to the Power by which, and the Time,
at which they were to be Assembled. The Power of Calling or Appointing it, he
declares to be in the *Præfect*, yet with the Assent of the *Provincials*, neither was he
by his Authority to disturb or govern it; as in the Church, (*Gothofred* tells you)
the Right of Appointing the Times of Councils doth not infer any Absolute Power.
For the Place, he will have it Summoned to the Richest or most Populous City of
the whole Province, which he signifies ought not to be grudged by others, as if
they were thereby injured; for great Emulations there was wont to be betwixt
them, and Contentions which of them should have these Assemblies; in which the
Judges

A.D.
392.L. 127. de
Decurionib.
Cod. Th. Da
pud. Kal. J.
Abst. à Cod.
Just.L. 128. ejus-
tit. Cod. Th.
et L. 42. Co.
Just. cod. Da
pud. Kal. Au.L. L. 12, 13
de Legatis et
Cod. Th. et l.
5. Cod. Just.
cod. tit.

sect.5. Judges should Winter; and in other things, wherein their Profit was concerned. *A.D.*
In the most Populous Cities, he will have the largest Places to be chosen for the *392*
Meeting, where most may come together, that matters relating to all may not be
determined by a few. As for the Persons which were to Constitute the Assemblies,
he Wills, that all Sorts be admitted, and come thither; not only the Common
People, and the *Curiales*, and Owners of Lands, but the *Primates* of Cities, Vil-
lages, or Castles, and all the *Honorati*, or such as had borne Offices, except Persons
of *Praefectorian* Rank, or such as had exercised the Office of *Praefects*. Therefore
the former Law he would have Consulted in their own Houses; as the Laws allow
Persons of Dignity to give Testimony at Home, and to be gone to upon other Oc-
casions, to preserve their Honour, and yet that their Advice may not be wanting.
But in the latter, he alters his Mind, giving Liberty to all of *Praefectorian* Rank,
or *Primates*, either to be present in the Assemblies, where Place and Respect
should be allowed them, according to their Quality, or, if they pleased, they
might send their Proctors or Deputies to declare their Opinions; as in other Mat-
ters the Laws permit Dignified Persons to make their Proxies, and sometimes con-
straine them so to do. In the last Place, he will have that alone Authentick and
Good, to which the Major Part shall assent, as is, and ever was the General
Rule; however at this Day, in the Northern Parts of *Europe*, the Dissent of
one Deputy makes Fruitless the Meeting and Debates of the whole Assem-
bly.

6. Toward the latter end of this Year he received Information, true or false,
That some Publick Officers or Governours of the Provinces Oppressed, and exercis-
ed Rapine, in the Places committed to their Trust, against which Crime he now
proceeded with all Severity. He directed a Constitution to *Rufinus*, lately advanced
to be *Praefectus Praetorio* in the room of *Tatianus*, wherein he tells him, "That
by former Laws, such Judges as had afflicted the Provinces by the Crime he
terms *Peculatus*, should be subject to the Penalty of a Mulct. But forasmuch as
this Punishment is not adequate to the Offence, nor the Vengeance taken suit-
able to the Sin, he is pleased to change it by a more severe Censure; that whereas
scarcely can a Punishment be found fit for such Wickedness, nor so great Villany be
Expiated by Condign Torture, the Penalty Incurred shall be Death, and the
Crime be Restrained by the most Severe Animadversion. Indeed, by the Ancient
Laws, one sort of that they called *Peculatus*, viz. Converting the Publick Money,
belonging to the Treasury, (taken in War, or raised out of Mines) to ones own
use, was punished by a Forfeiture of Four-fold; and by this Name was also un-
derstood the Suppression or Stealing of Monies, belonging to the Cities and Pro-
vinces. But Oppression, and exercising Rapine upon the Subject himself, is also
Signified by this Word, and the Wording of the Law seems to aim at the same Of-
fence; of which *Rufinus*, the newly Advanced *Praefect*, either found, or made
some Persons Guilty. We must know, that of late he was crept into great Favour
with the Emperour, and Contrived the Ruine of his Predecessor, and Accomplished
it in this following manner, if you believe *Zosimus*, whose Story that we may
relate, we shall usher it in with the same Reflexions that he makes upon *Theo-*
dosius.

7. Being Returned to *Constantinople*, (after his Disguise, and the Success of
Promotus) he was much Elevated for the Victory he had obtained against *Maximus*;
but being yet very sad upon what the *Barbarians* attempted upon him, and his
whole Army, he Resolved to bid farewell to all Wars, and Contentions that
way. Having committed to *Promotus* the Care of such like Matters, he himself
calling to mind his former Course of Life, made Magnificent Suppers, and was Cu-
rious in devising Pleasures, frequenting the Theatres, and the Games in the *Cir-*
cus. And here, saith he, I cannot but admire the Humour of this Man, and his
Course of Living, which was easily inclinable both ways. For, whereas by Na-
ture he was Sluggish, and given to Supine Negligence, and the Vices above reci-
ted: and if no sad or formidable Thing afforded him Trouble, he gave up the
Reins to Luxury: yet if any such Necessity pressed him as endangered his Estate;
he put off his Sloth, and bidding farewell to his Pleasures, resumed a Manly Cou-
rage, and Returned to a Laborious and Painful way of Life. Then again, though
by such Experience Instructed, when freed from his Cares and Fears, he would
subject himself to the Vices of his Lazy and Slothful Genius, which by Nature
were incident unto him. But of all his Officers, to whom he committed any
Charge, the most he set by was *Rufinus*, a *Celtick Gall* by Nation, and Master of
his

Sect. 5.

Rufinus the
new Prefectus
Pretorio cau-
seth Promotus
to be murder-
ed.

his *Palatine* Attendants. Him he trusted with the whole management, and none others he regarded, which gave Offence to *Timasius*, and *Promotus*, that after so many Dangers and Labours sustained for the Service of the Common-wealth, they should be Esteemed less than he. However, *Rufinus* wonderfully pleased with his good Fortune, and puffed up therewith, at a certain Publick Council, spake something sharply against *Promotus*; who, not able to bear it, struck him on the Face. He presently betook himself to *Theodosius*, who, upon sight of the Bruise, fell into such a Passion, as to say, That except they would cease to be Envious against *Rufinus*, they should in a short time see him Reign. *Rufinus* still more Intoxicated with Pride and Ambition, after he had heard these Words, as he was fierce, and harsh towards all Men, in Particular he perswaded *Theodosius* to command *Promotus* out of the Court, to Exercise some Soldiers for the War. This having obtained, as he travelled into *Thrace*, he caused some *Barbarians* to lie in wait for him, and cut his Throat; a Man who had both contemned Riches, and had faithfully demeaned himself toward the Princes. But, saith our Writer, He was justly served, for being imployed by those, who so carelessly and impiously Administred the Affairs of the Common-wealth.

Procures Pro-
culus to be
Beheaded.

8. The Rumor of this Villany flying every where, while it is in every Mans Mouth, and every Modest Person abhorreth it, *Rufinus*, as if he had done some worthy and considerable Matter, is designed *Consul*. And now are *Tatianus* and *Proculus* his Son brought into trouble, though they had no otherwise offended him, than for that they were both *Prefects*, one of the *Prætorium*, and the other of the City, which Offices they had Exercised without Corruption, and as their very Duty of their Places obliged them. That his Designs against them might be brought about, *Tatianus* is first put out of his Place, and brought to his Tryal, *Rufinus* being advanced to be *Prefect*. For Forme and a Colour, others were joyned in Commission with him to hear and judge him, but the Authority of passing Sentence reserved to him alone. But because *Proculus* sufficiently knowing what he was to expect, had fled for his Safety, and *Rufinus* was afraid of him as an Industrious Man: Therefore, lest he should make some stir, and by his Wisdom disturb his Prosperous Condition, he Circumvented first his Father by Oaths, and other sorts of Fraud, and perswaded the Emperor to promise great Matters to them both, whereby the Old Man, from his True and Just Suspicions, was brought to approve of vain Dreams, and by Letters to recall his Son. He being apprehended, is straight Committed to Prison, and his Father Confined to his own Country; and the Commissioners, have often Meetings for Dispatching the Proccs against *Proculus*, whom at length, as had been agreed betwixt them and *Rufinus*, they Condemn to Death, to be Executed upon him at *Syce*, a Place not far distant from *Constantinople*, (now called *Pera*, and *Galata*) whither they Command him to be Conveyed. The Emperor considering of it, sent after to stop Execution; but the Messenger received Instructions from *Rufinus* to move slowly, so that he came not to the Place before his Head was cut from his Shoulders. Such is the Story concerning these Two Eminent Persons, their Tryal and Censure, which whethersoever Just or Unjust, the Law we now mentioned is Rationally thought to have been part of the Rescript obtained by *Rufinus* in order to their Examination, and such Issue as they either Merited, or he Devised. The Country of *Tatianus* was *Lycia*, which hereupon he procured to be Infamous, but Four Years after was restored to its former Credit by *Arcadius*.

Vide c
Theod.
Ejstra
queban
recore
Ejstra
nequis
nem p
ullum,
Angust
rante,
C.
L. 7.
visdici
ubi qu
ven. d.
Th. lib
de lucc
Just.
the

Y to his
publisheth
Edicts in be-
half of Wives.

9. Little less than a month before the death of *Proculus*, or on the eleventh of *November*, *Theodosius* published an Edict in behalf of Married women, directed to *Martinianus* the *Comes* of the *East* at this time. In this he declares that he will have them enjoy the same Honour and Nobility with their Husbands, and that they answer upon any Impeachment in that Court of Justice where their Husbands ought to abide their trial, or to which their place of Habitation doth belong, which must be understood concerning their own private matters and causes; for in such as respected the publick Charges or Functions belonging to Lands, they were to be owned and discharged where the Wife had her Original. As

Sect.5. the Wife received Honour and other Conveniences from her Husband, it was thought fit that some respect should be showed to him in way of Recompence for this, and all the Charge he sustained by the Marriage. But by the former Laws Husbands in certain Cases found Ingagers or Sureties for preserving and repaying the Dowry or Portions of their Wives, received with them; and, this might be more a Custom in the East, where all sorts of Places and Persons abounded in Luxury, and men were wont to have very great Fortunes with their Wives. But this way of finding Sureties or giving Caution, now might justly seem very burthensom in the Commonwealth, as that which disturbed and perplexed the Estates of many Families, amongst so many Mariages, so many Securities being required, and conditions of Persons standing in so ticklish a posture, a man being rich to day, and often by some or other accident, especially of War, reduced to Poverty the day following. This therefore *Theodosius* thought fit to abolish at this time by another Edict directed to the same *Martinianus*, but rationally thought to have made up with the former, one and the same Constitution, by *Gothofred*, whose opinion concerning this Interpretation of the Law we gladly close with, as most proper; but whereas he would have voluntary Agreements and Contracts also nulled by it, we cannot think that this extended to a mans own free and voluntary Act which might be founded upon great Reason and Equity.

A.D.
393.

id Hus-
ids.

L. un di File
j. s. s. i. b. Do. i.
un. Cod. Th.
lib. 3. tit. 15.
Abol. à Cod.
Just.

Advanceth his
in *Honorius*
the Digni-
of Empe-
r.

A.D.
393.
Theodosio
Aug. &
Fl. Abun-
dantio
Cofr.

e rescinds
the Acts of
Atianus.

In Ecclesie
Christiane Cen-
turia 4. ad
An. 392.

Restrains Mi-
itary Officers
from meddling
in Civil Mat-
ters.

L. L. 12, 13.
de Bonis pro-
scriptorum. Cod.
Th. Absunt. à
Cod. Just.

L. 22. de An-
nona & Tribu-
tis. Cod. Th.
Dat. Frid. Id.
Jnn.

L. unic. de Of-
ficio Judicem
Militarium.
Cod. Th. lib. 1.
tit. 9. c. 1.
Cod. Just. cod.
Tit. Dat. Con-
stantinop. prid.
Id. Feb.

10. The CCCXCIII year of our Lord had *Theodosius Augustus* the third time, and *Fl. Abundantius* for Consuls. *Rufinus* continued *Præfectus Prætorio* of the East; *Apodemius* of *Illyricum* and *Italy*; and *Aurelianus* was *Præfect* of *Constantinople* in the room of *Proculus*. *Theodosius* opened the year by creation of a new Emperor, which was *Honorius* his younger Son, whom he promoted to that Dignity on the tenth of *January*. Betwixt the Death of *Valentinian* and the Advancement of *Honorius* hapned two Solar Eclipses. One is mentioned by *St. Hierom*, who writes that it was seen with the consternation of many Persons about the days of *Pentecost*. But it hapned on the sixth of *June*, one and twenty days after *Whitsunday*. And the same year there was another Eclipse on the second of *December*, which, because it fell out some forty days before the Inauguration of *Honorius*, *Marcellinus* and *Prosper* writ as if it happened the same day, for which they are taxed by *Jacobus Cappellus* who also blames *Calvisius* for placing it at the twentieth of *November*. *Theodosius* continued all this year at *Constantinople*, where, as he carried on his preparations for the ensuing year, so he made as great provision for the well governing of the Commonwealth by several Laws, and the more need there was of it, because none at this time were made, in the *West*, where *Eugenius* the *Usurper* had his abode; at least that afterward were owned as Authentick. And those which we meet with bearing the most early Date, are two several Edicts directed, the one to *Rufinus*, and the other to *Drepanius*, the *Comes Rei Private*, for rescinding the Acts of *Tatianus*, so as such Goods or Estates as had fallen to the Treasury by any Proscriptions or Confiscations made by him as *Præfectus Prætorio* should be restored to the Owners if they were alive, or else if they had already suffered death, to their Heirs. Moreover, by another Law inscribed to the same *Rufinus*, he takes off all extraordinary Taxes or Impositions laid by the said *Tatianus* upon the *Provincials*, being Payments to be made of the *Annona*, or Provisions for Use of the Army, out of, and beyond, the ordinary Tax or Prestation. This Emperor lately, as we have seen, prohibited the Officers of his Army to Molest or Injure any of the Principal *Curiales* in intermeddling with their Affairs, and so also he found Reason in the beginning of this Year to restrain their Interposing in the businesses of all other private Persons, by an Order directed to the *Comites* and *Magistri utriusque Militie*; for to these *Magistri* was added the Dignity of *Comites*. He forbids, that they they give to any that Protection, which the Ordinary Judge of the Province was wont to afford to such as had Reason to fear the Insults or Violence of great Persons, or to commit any thing Decreed by such Judge to Execution by force of Arms. Hereby he only admits of their giving their Help and Assistance in publick Causes, which other Laws indeed do allow off; as to protect the *Navicularii* from such as injured them; to search for and apprehend Theives; to the Officers that collected the Tributes; to protect Churches, or the like. Although seven years before this, *Theodosius* had forbidden Souldiers thus to meddle, though assigned by a Judge, either in publick or private Businesses, Yet was there necessity now to renew the prohibition.

Sect. 5.

Rufinus succeeds into the place of Proculus.

To him and Rufinus Constitution is directed.

11. Into the place of *Proculus*, lately put to death, succeeded one *Aurelianus*, and, to him and to *Rufinus* jointly, *Theodosius* not long after gave out a Constitution, wherein he Consulted for the Dignity and Emolument of the Senatorian Order, the good of the *Curiales*, and the Beauty and Ornament of their Cities. But that herein he might not look too much backward, he premiseth this Consideration, That all Constitutions, do not raise Calumnies to what is past; but impose Rules upon such matters as are to come. As he thought fit to abrogate such things as he was informed to have been unduly practised by Father and Son, so neither would he give way to great Reflections. And therefore he tells them that the Laws are intended to look forward and not backward, though sometimes in certain cases this Rule doth fail, and especially in rescinding the unjust Acts of Usurpers and Magistrates. For asserting the Rights of *Senators* he *prohibits any thing to be paid out of their Lands, to those they called in those days *Syriarchi*, who were Pagan Priests in that Country, whose Employment it was to set forth Shows and Pastimes (as of Wild Beasts) to the People. He also restored to the *Censuales* formerly spoken of, the Right of naming *Prætors* to a certain sort of work, when they had been formerly called to be *Prætors* in general by the Senate, which had been taken away from the said *Censuales* by *Constantinus*. In the third Place, He permits that the *Curiales*, or *Mancipes*, may be admitted to the Degree of *Senators*, provided, that They have discharged all Services belonging to the Courts, and their Estates be so far obnoxious to the said Courts, that sufficient Persons may be substituted in their room, as he had formerly declared his Resolution in this Matter; though sometimes he again varied therein, as he thought the Case required. In the next place he tells *Rufinus* the *Præfectus Prætorio* (for to him and no other this could be directed) that in reference to heating the Baths at *Antioch*, the ancient Custom must be observed as to Payments; For as much as it is Evident that whatsoever *Tatian* had innovated therein, was deservedly to be abolished. That the City of *Antioch* was famous for its Baths, is evident from several Testimonies. The heating of these Baths is also reckoned amongst personal Services, and there's no doubt but the *Curiales* were wont to contribute towards it; but it seems that *Tatianus* had, during his Power, increased the Contribution thereof so much, that it was become burthenfom. As also in case a *Curialis* had three Sons, *Tatianus* had either Ordered that he might free all his Sons from their Obligation to the *Curia*, or else none of them could he make free; to take off which extremity, on either side, *Theodosius* now determined in his Rescript to *Aurelianus* (or rather *Rufinus*) that if any *Decurio* had three Males he might if such was his Quality, prefer one to be a *Senator*, the rest remaining tied to the Obligations contracted by their Original. It appears moreover that *Tatianus*, or his Son *Proculus*, had applied themselves to the erecting of new works in Cities, neglecting the Old Buildings; for, this by another Branch of this Constitution the Emperor prohibits: It's true, by Licence obtained from the Prince, old Houses might be pulled down to erect new Fabricks; but he now declares, that in case such Houses exceed in value the sum of fifty pounds of Silver, or two hundred and fifty *Solidi*, that it shall not be done without a particular Account or Relation made thereof unto himself.

Theodosius enlarges the allowances of Bread formerly granted to the Inhabitants of Constantinople.

12. The Bread which *Constantine* had given to the Citizens of *Constantinople*, at this time by several Laws he indeavoured to reduce to the true intent of the Donor, and declared that his Will was, that what was granted to Military Persons was in contemplation of their building Houses in that City. To such he confirms it, whether transmitted to their Heirs, or sold by those of the *Schola* to which this Right belonged; and to other Persons that had a Title by their Houses; so as to them he creates a new Right, in lieu of such alienations; and repeals what *Proculus* by his own Authority had done herein. For a supply of such as should stand in need for the time to come, he now bestows an hundred and twenty five *Modii* of Wheat, over and above the old Allowances granted by *Constantine* and *Constantinus* his Son, to be daily paid out of the publick Granaries of that City; order for this purpose being sent to the *Præfect* of the *East*, for this supply to be made in all succeeding times. Of this New Canon of Corn (as then they termed it) by him instituted and conferred on this City, mention is made both by *Arcadius* his Son, and *Theodosius* the Younger his Grandson, in Laws made by them upon this Subject, which in their due time and place we may hear of. But that, while he provided Bread for Sustainment of the People of *Constantinople*, the People of the Country might not have theirs snatcht out of their

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*Omnia Corlij
tuta non p
tibus calum
niam faciunt
sed futuris
guam impo
nunt. l. 3. de
constit. p
cip. & l. 1. de
Cod. Th. lib.
tit. 1. de
Cod. Jul. j.
enim ibi pla
alie similes
eandem sen
tiam leges.
* L. 1. de Pr
dus Senato
rum. Cod. Th.
lib. 6. tit.
L. 25. de
toribus. Co.
To.
L. 130. de
curionib. c
Th. Abell.
Cod. Jul.
L. 131. de
curionib. c
Th. Abell.
Cod. Jul.
temporari
localis.
L. 132. de
curionib. c
Th. Abell.
Cod. Jul.
rogata per
alt. de De
onib.
L. 29. de
ribus publi
Cod. Th. l
15. tit. 1
Abell. de C
Just.
L. 30. ej
tit. & L.
Cod. Just.
tit.
Vide L. 1
10, 11, 1
Annonis
cus & pa
gradili. c
Th. lib. 2
tit. 17.
L. 2. de
nis civili
Cod. Jul.
11. tit. 1*

Mouths

et. 5. Mouths by unequal Contributions toward Sustenance of the Army, he provided by a certain Law directed to *Rufinus*, whose care, as *Præfect*, it was, to have the Provisions duly raised. By order of *Valentinian* the Elder, these Tributes were to be paid thrice every year, or at every four Months; and of such Tributes so raised, the *Apparitors* of the *Duces* were wont to make Breives and send them to the Office of the *Præfect*, that it might be known how much was spent upon the Souldiers, commanded by every *Dux*. Now to make this more evident he Ordains That before such *Quadrimestruous* Breives be sent to the Seat of his *Highbreits* as he styles him, the like shall be delivered to the Office of the Ordinary Judge or Governour of the Province, that they may be Compared together in the presence of both the *Apparitors* of the Military *Duces*, and the *Officials* of the Ordinary Judge, that so by Comparing them, any Error or Cheat may discovered; and the Breive may be rejected. Otherwise if the Breives disagree, and the Levies be not rightly made, the Danger will fall upon the *Scepters*, or those that nominated them, who, as we have formerly seen, were to Answer for their Miscarriages.

13. Whereas the Governors of Provinces now took upon them to excuse the *Curiales* for some time (for necessary Reasons pretended) from the Services of their Courts; *Theodosius* thought fit, to allow of no such temporary Vacation, except granted by himself, and that for Causes true and proved; of such Importance was it to have these Services discharged, for the good of the whole Provinces depended upon the well government of these Cities, Towns or Castles, to which for the most part the whole Country belonged, and was divided, and did depend on them. He also found at this time great Complaints made against Courts of Justice in reference to Appeals, whereof some might be just, and others made by such Appellants as were themselves in fault by reason of their irregular proceedings. Therefore this year to obviate Abuses in both sorts, he enacted that a Fine should be set upon him who would, by his *Proctor* appeal before Sentence or before a *Gravamen*, and as for the Judge, if he refused to admit of such Appeals, as by Law and Right were to be admitted, he himself should incur the Penalty of thirty Pounds of Gold, and his Office one of no less than fifty; but on the other side, when Appeals were received, the *Judex ad quem* should receive or try nothing; but what had lien before the President, or *Judex a quo* in the first Instance, either proved, begun, or relating near to the same Allegations. There was another practice discovered at this time, which intrenched upon the Sovereign Authority, and violated the *Regalia* of the Imperial Diadem. The Right of Coyning Money, as we have already seen, belonged only to the Prince; and yet sometimes it hapned that private Persons either were connived at, to stamp Brads, or sometimes obtained Licence to do it from the Emperors themselves. This he thought not fit to be permitted, but as well to preserve his own Right as to hinder that liberty which others might take of Falsifying and Counterfeiting the Coin; he commands *Rufinus*, that if any for the time to come shall wrest such Power to himself of stamping Brads by virtue of any Rescript or leave obtained from himself, he shall lose both the Advantage he proposed to himself thereby, and further incur the penalty he deserveth, viz. of Coyning False Money. Thus antiently in *France* the Kings gave leave to the Prelates and Barons of the Kingdom to Coin Money, as *Gothofred* informs us from the Records of the Court of *Finances* in *Paris*; and namely in the year M. CCCXVI in the Reign of *Levis Hutin*; a certain Weight and Image for so doing being prescribed them. But afterward these Privileges were revoked and bought off. In particular, one Noble man sold to the King that Right of his for five thousand Liures. And we have lately seen, at Home, that licentious liberty which Private Tradesmen took in our Cities and Towns of stamping Brads or other Farthings with very good Reason recalled, and new ones warranted by the Royal Stamp and Authority, dispersed for publick use throughout the Nation.

14. *Theodosius*, his Military Preparations against the ensuing war now growing to an Height, thought fit to reinforce what his Predecessors commanded, for the Safety and Ease of their Subjects upon such occasions. Knowing how the Souldiers were often wont in their Marches and Quarters to oppress thole that lodged them, by exacting of them several things relating to Victuals, and other Conveniencies, besides the ordinary Provisions made for them: to restrain this liberty he sent out his Edict directed to *Abundantius*, *Stricho* and the other *Comites* of both the *Militias*, requiring and charging them, That no man in military service whatsoever should

A.D.
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Persons
Coyning.L. m. d. Qua-
drimestr. Cod.
B. lib. 1. tit.
25. d. lib. 2.
Cod. Just.L. 135. de De-
cret. lib. Cod.
Th. 1. m.
Cod. Just. de
i. qui a Prin-
cipal. creatio-
nem a. 1. tit.L. 1. §. 1.
52. de Appell.
et Consult. Cod.
Th. lib. 2.
Cod. Just.L. ult. d. falsa
moneta. Col.
Th. lib. 9. tit.
22. §. 1. ult.
Cod. Just. und.
tit. Dist. 4.
Plus Jul. Con-
stantinop.

Sect. 5.
He takes care
that Souldiers
do not op-
press the
Country.

should require any thing in the way of, or, for his *Salgammum*, that is either Wood or Oyl, or Pallets to lye on. By *Salgammum*, which is rationally derived from *Sal* or *Salt*, was originally signified Herbs or other things pickled, or preserved in Salt and Vinegar, and hence those that sold them were called *Salgamarit*. But secondarily, because of the Pleasure taken in these things by the Souldiers or others, was the word applied to signifie all things needful to the Sustenance and Refreshment of the Body, which still they would Term and Exact by the name of *Salgammum*. Because the Souldiers, to put themselves into Money, were wont to require and take the Price of the Provisions they were to receive in kind, and often, when they had got the one, exact the other too, or when Victuals were dear, then to take money wherewith to buy in time of plenty; he commands these same Officers that no man dare to exact Money in lieu of their Provisions, under pain of losing the price and thing also which he would have exchanged. But whereas there were some Provinces, which by reason of their distance, or the roughness of the way, were not in capacity to send their Provisions to such Posts as were taken up by the Army, nor indeed to the Granaries belonging to the Emperors' private Exchequer, he commands that what *Tatianus* had formerly ordained in this point shall be observed. In this case he had Ordered that such like Provinces should be allotted to the Provisions allowed to the Officials belonging to their Governors or Ordinary Judges.

Makes a famous Law for sparing such as utter seditious Speeches.

15. These Laws were such as must needs gratifie the Provincials who often suffered much from the Insolence of Souldiers; yet they were not to be named or regarded in comparison of a famous Edict he published at this time, and directed to *Rufinus* concerning Speeches uttered against his own Person. "If any one," saith he, being a Stranger to Modesty, and void of Shame, hath thought fit to abuse our Names by naughty and sawcy Language, and out of a giddy Humour be a turbulent Declaimer against the Times, we will not have him Punished, nor suffer any Harme: because if it proceeded from Levity, it is to be despised: if from madness, it is most worthy of pity: if from Injury, to be remitted. Therefore let the whole Matter be reported to us, that by the Persons of the Men we may weigh and consider their Words, and so resolve whether they be fit to be neglected or inquired into further. Hereby he Prohibits the Judges, or Governours of Provinces to punish any such Offenders, but commands that he himself have the hearing of them, by a certain Sentence most full of Clemency and Indulgence, promising in a manner his Grace and Pardon, if any one out of levity, madness or an injurious humour had reproached Himself or the Times. And this he did out of his Connate easiness and Clemency, being a Prince, whatsoever some have maliciously written against him, most eminent for Christian Policy and a merciful disposition: of which there are many testimonies given him by Heathen Writers of this Age, as well as other Laws he made upon this Subject, which so far evince his Genius to have been such, as that by some he is rather blamed for his too much Lenity, which encouraged ill natured persons to offend. Of all others, this Law for the Matter and Manner of it hath become most renowned, both in the Courts of Princes, and of Justice; being wont to be applied to several Arguments upon occasion; as whether Punishments are to be differed or mitigated; when the question is, whether Princes ought to slight or dissemble their knowledge of licentious Speeches; concerning matters reserved to the cognisance of Princes themselves, and relation thereof to be made to them by their Judges; concerning the punishment of High Treason; or lastly when the several virtues becoming a Prince are exhibited, Mildness and Clemency so much expressed and set forth by this Law, are most inculcated as those which most adorn his Crown.

16. The Crime here to be remitted or inquired of is a sort of Treason, which according to the *Roman* Laws is contracted both by Words and Actions, but in the former sence is esteemed less, not of so high a Degree, of so deep a stain as the later. But these words were of two kinds, being cast out either, against the Prince himself or the Times, which amounted to much the same, reflecting upon the management of his Affairs. And never did any times more abound with these Calumniators, than those of these Christian Princes. For it was a common thing, an universal practice of the *Pagans*, amongst other Taunts and Abuses, to impute all Calamities that befell the Empire, or any particular place to Christian worship, as if the Decree of Nature by a certain Law tended to the punishment of that which they blasphemously termed Impiety. These old Objections are sufficiently known out of the Apologies of Ancient Christians: If any War ill succeeded, if any Army miscarried, if any Plague, Famine, or any other Publick Calamity fell upon any

A. D. 393.
L. 2. c. 3.
gan. 1. 1.
non praebr.
Cod. T. 1.
7. tit. 5.
Dat. Abun-
tio, Stiltch
& ceteris
mitibus
utriusque
tia, 3. 1.
Aug. Abut
Cod. Just.
L. 1. 18. 2
20. de Ex-
tione Mil-
Annonae. c
Th.
L. 19. c. 1.
L. un. Si q
Imp. mal.
vit. Cod. 1
lib. 9. tit.
Dat. 5. 11
Aug. &
L. un. Co.
Just. cod.
Quoniam
ex levitat
cessit co-
nendat
Si ex inju-
miseratio
dignifi-
si ab inu-
remittit

any Nation, then *Christianos ad Leones*; the Christians as the cause of this must be exposed to Wild Beasts: at least when the Scepter became Christian, and no Authority would incourage this Injustice and Cruelty, all must be imputed to the Sacrilege of them. For, when the Empire laboured under its own Weight, and the Barbarous Nations (as all things, through vicissitude of Affairs are subject to mutation) broke in and made Havock of the Provinces. When the City which had been lately Mistress of the World became subject to their Insults and Impetuosity; all this alteration the Pagans with vociferation ascribed to a fancied provoking guilt and enormity of Christianity it self, which they thought could not be expiated but by such miseries and devastations. And herein the sawey Impudence of the *Ethnicks* both Writers and others cannot but be admired; how daring they were, and what Designs they drove, (even contrary to this Law) to reproach the Persons and Governments of the Emperors. For no other thing did *Eunapius* aim at in writing his *Chronica*; nor *Zosimus* in the composition of his History as we hope we have sufficiently made out already, and more shall do, as also the egregious malice vented by others against all these eminent Princes of the Christian persuasion.

17. But their Choler was the more moved, and they found more pretence to vent it from things which fell out at this very time. For the year before, *Theodosius* had absolutely prohibited the Pagan Worship to be exercised by any Person, or in any place throughout the East; of which in its proper place more largely. Then upon a secular account and in reference to civil matters we may find by *Zosimus* what his Friends, the *Ethnicks*, talked and objected against the Administration of this Prince, as that the Form of the Army and Military matters was changed, more great Officers made than formerly, and thence extraordinary Tributes exacted, that Barbarians were received and much favoured, and great discourse there was of the Tyranny and Oppression of his great Ministers, as *Rufinus*, against whom was objected the fall of *Tatianus*, and the death of *Proculus* his Son. But besides these general pretences, what the Particular or Immediate Cause of the making of this Law should be, is capable of further Inquiry. Some think this have been his Act of Grace or Indemnity granted to the *Antiochians* after the defacing of his Images and the Reconciliation made in that manner, and by that means we have formerly declared. And indeed the obscurity which is to be found in most Writers as to the time of this Tumult at *Antioch* renders their Opinion very excusable, for though *Zosimus* relates it as hapning about the time of the Expedition against *Maximus*, yet others have cast it back to the later undertaking of *Theodosius* against *Eugenius*. Moreover, the Argument of the Law might incourage one to such like thoughts, it being of Speeches or Reproaches cast out against the Prince, which *Zosimus*, *Libanius* and others affirm to have been the Crime, in a great measure, of them of *Antioch*, who followed therein the ordinary Humour and Genius of their City. Besides, by what this Law speaks of weighing the Speeches according to the Quality or Condition of the Parties, one may very well Collect that there were several sorts of Offenders in this kind; and *Libanius* relates how the Comes of the East, or some other Officer put many to death after the tumult at *Antioch*, one accusing another, without any respect had to Sexes or Persons. When what Arguments or Reasons the Emperor gives for exercising his Clemency, in this Edict, are just the same with what the Messengers sent from that City, viz. *Flavianus*, and *Libanius*, do use in moving him to Compassion toward that miserable People. Again the very sanction of the Law might seem to conclude for this persuasion, therein he commanding that Relation be made to himself concerning the whole matter of complaint, which was the great thing desired as we have seen, and by the great labours of Religious Persons, at length, (by prevailing upon the Judges, *Casarius* and *Ellebichus*) brought about, *Theodosius* grieving afterward, that in the Interval any Persons had been put to death. Hereupon it may seem probable also that the Indulgence commended so much by *Libanius*, and particularly to the Court of *Antioch*, is the very same with that contained in another Law, which together with this made up one and the same Constitution. The last thing is the Place whence this Constitution bears Date, viz. *Constantinople*, whither *Flavianus* and *Libanius* were sent to him.

18. But, for all this, the Tumult at *Antioch* hapned almost seven years before, and therefore this Law could not be made to answer that occasion. For it fell out in the *Decennalia* of *Theodosius* and the *Quinquennalia* of *Arcadius* his Son, when he was at *Constantinople*, after the subduing of the Barbarians or *Gruthungi*; af-

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ter the death of *Flaccilla*, when only one Son of *Theodosius* was *Augustus*, and when he made preparations for his Expedition against the Usurper *Maximus*. Then, besides, it fell out in the Winter season before *Lent*, and *Chrysostom* saith that the Pardon granted to the *Antiochians* was with them before *Easter*, and therefore this our Law could not be it, which is dated on the ninth of *August*, and is inscribed to *Rufinus*, as *Prefectus Prætorio*; whereas there was no such *Prefect* that had any thing to do in the *Antiochian* Tumult, which therefore fell out in the year *CCCLXXXVII.* as we have already set it. Some others assign as an occasion of this Law what *Sozomen* writes concerning a Person *Illustrious* by Dignity, condemned by *Gratian*, for having reviled him, and freed by the intervention of *Ambrose* the Bishop of *Milan*; but very wide, as if this had been made by *Gratian*, dead long before, and of which *Theodosius* was the Author. *Gothofred* rejecting these several opinions, from the Law lately spoken of, which with this is rationally thought to have made up one Constitution, conjectures that the immediate occasion proceeded from the licentious liberty of the *Curiales*, at this time taken (and probably by those of *Antioch*) to speak against the Emperor and his Government. For although that Law be not at all of this Drift or Design, yet they being directed to the same Person at the same time, nay making up one and the same Constitution, and the one being made for rectifying matters belonging to the *Curiales*, he concludes with some Reason, that they were the Persons aimed at in both. For indeed the *Curiales* were the substantial Inhabitants of Cities and Towns, and of them the Body of the Commons of the Empire consisted; below them were such persons as the meanness of their Estates and Conditions rendered them inconsiderable, and above were the *Honorati*, who had discharged great Offices, and those who were in actual possession of them. Now, to put them into this Sawcy and Tumultuous Humour, some of the foregoing things which they esteemed Grievances might give occasion. As the rigorous suppression of Paganism now carried on; the greatness of *Rufinus*, who probably afforded too much occasion for Envy; his proceedings against *Tatianus* and his Son; or possibly, there were some Acts of *Tatianus* and *Proculus* which were too severe in Correcting the Petulancy of the Tongues of the *Curiales*, and upon suggestion of *Rufinus*, they seemed fit to be Repealed, and the like for the time to come Restrained, as we see several of their Orders and Methods in Proceedings were nulled. Whatever the Occasion was, he thought fit to restrain the Violence of the Judges, who often would be double diligent, and busie in punishing such like Offences, thereby to ingratiate themselves with the Emperor. He doth not say that they should be wholly neglected and passed by, as some have erroneously concluded; but the whole matter related to himself, who thereupon no doubt would proceed with that great Prudence he hints at, in weighing the Sayings of men by their Persons, Qualities and Conditions; and according to those three Acts of Clemency, viz. *Contempt*, *Pity* and *Pardon* (or *Indulgence*) which he opposeth against so many Originals or Sources of this Opprobrious Language.

19. However the *Curiales* behaved themselves at this time, it appears that the *Curia* in the *East* were much Exhausted by some means or other; for in the space of one year and an half, besides the Law lately mentioned, as part of this Constitution, were five others directed to this *Rufinus* for filling them up, by recalling their Members from other Employments to which they had betaken themselves. Besides, in this now named Law, he Commands that such Inhabitants and those they termed *Vacantes*, or were not joyned to any other Body, shall also be forced to these Services, provided they be fit Persons, having sufficient Estates, which *Valentinian* the Third afterward limited to the Value of three hundred *Solidi* at least, permitting others to be made Clerks. But *Theodosius* forbids that any one be obliged only for this Reason, That his Mother was descended from a *Curialis*; so that the Privilege granted formerly by *Julian* to the *Antiochians*, seems abrogated by this Law: but the Reason he gives for it is this general one, That no man can be obliged to any Condition or Service, by relation to that Person which it self is free or not obnoxious to it, as the Mother was not. But not only were these Senates of the City empty at this time, but the Senators of *Constantinople*, many of them, so indigent, that the Senate it self taking their Case into Consideration, made a *Senatusconsultum* thereupon, That such Senators as could not pay that which they called *Cicentis Collatio*, should be answerable for seven *Solidi* yearly for their Portion or Share. If they thought fit to pay it, then they might continue in their Station, or else they must relinquish the Dignity, which

Theodosius

A.D.
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the Corporations.L. 137. a
Curialib.
Th.L. 4. de
curialib.
Glabali.
Cod. Th.
a Cod. J.
Dat. ad
Lianam
pud. Nat
S. 9. m.

Et. 5. *Theodosius* adds to the *Senatus-Consultum*, as the Custom was in this Age for Emperors to confirm these Decrees of the Senate, to Corroborate them, and to add what Penalty they thought fit. This now was thought reasonable in the Eastern Parts; whereas in the West, the payment of two *Folles* seemed enough for the Senators of lowest Fortunes; but so *Theodosius* intended both to gratify Senators of lowest Estates, and yet exact what to him seemed something agreeable to the Dignity of the Place. But as the Condition of these several Bodies now mentioned seem at this time Impaired; so that of the *Navicularii* also was in no good Estate, some complaining that they were too poor to undergo the Function, and others pretending, that by reason of their Original they were not obliged to the Service. The whole state of the Matter did now *Theodosius* refer to the most approved *Honorati* in every Province for Wisdom and Fidelity. But because they might also be concerned themselves; (out of whom the Body of the *Navicularii* by some Laws were to be supplied) therefore in this Matter also he requires, that their Judgment herein be reported to himself; the best Course to keep Judges firm to the Rules of Prudence and Moderation. But for the Encouragement of such as should be continued in the Service, wherein the Maintenance of the City of *Constantinople* was so much concerned, he declared by another Edict directed, as the other to *Rufinus*, that the *Navicularii*, and they only, should be freed from the *Vestigalia*, or Customs arising from Merchandize Imported: And all other Merchants whatsoever, (though some, as the *Veterani* and *Clerks*, were otherwise, by some Laws, excused) should be obliged to those Duties, without any Exception.

20. The CCCXCIV. Year of Our Lord had for Consuls *Arcadius Augustus* the third time, and *Honorius Augustus* the second. *Rufinus* still continued *Præfectus Prætorio* of the East; and one *Herodes* was Proconsul of *Asiick*, being Succeeded the following Year by one *Theodorus*. All this Winter was, as well as the preceding Year, spent by *Theodosius* in Preparation for the War, for which by this time he was fully ready. As a Christian, he made use of the Means which True Religion directeth to, for accomplishment of that End he justly designed; while his Enemy in the Western Parts applied himself to Paganish Superstitions and Vanities, by Persuasion of *Flavianus* the Præfect, who being of Ethnick Persuasion, promised himself great Matters for Propagation of that Impiety, which now so fast fell to the ground, before the Power of Truth. *Arbogastes* in the mean time having secured *Gall*, prosecuted his old Grudges against those of his own Nation; particularly *Suno* and *Marcomeres*, Two *Subreguli* of the *Franks*, whom having now the Power of the Western Empire in his Hands, he resolved to Sacrifice to the Ghosts of his Ancestors. For this Purpose, in the depth of that Winter which followed the Death of *Valentinian*, he removed to *Agrippina*, or *Coleigne*, with Resolution to range over the most inward Reccles of the Countrey then Inhabited by the *Franks*, at such time as the Woods being dry and without Leaves, could not afford lurking Holes or Receptacles for any Ambuscadoes. He passed the *Rhine*, and wasted the *Bugcheri*, that lay next the River with a Village called *Aetia*, Inhabited by some of the *Chamani*, without any Opposition, save that some few of the *Ampsivarii* and *Chatti* shewed themselves on the farther Hills, being led by the late mentioned *Marcomeres*. The next Year preceding that whereof now we write; *Eugenius* (or *Arbogastes* for him) was mightily inflamed with a Desire of Yoaking *Italy* in the same Bondage with *Gall*, not remembering how *Maximus* his Predecessor (as we may terme him) fared in the same Attempt: but *Flavianus* his Præfect, a Man given up to Pagan Prophecies, pushed him up with hope of Victory. Before he should begin his Journey, he concluded, that the *Germans*, whome he was to leave at his Back, were to be obliged to terms of a Fair Understanding, lest, in his Absence, they should pass the *Rhine*, and harraße *Gall*. He Marched to the River, and on the Bank thereof shewed himself with great Numbers of Men he had newly raised, to the Nations of the *Franks* and *Alamans*; and by the Terror thereof drew them to renew the League. This, so well performed, he returned, and with *Arbogastes* Invaded *Italy*; which after his Entrance into *Milan*, he easily got into his Power.

4. *Theodosius* having Intelligence hercof resolved to set himself, with all Convenience, against such Tyranny and Usurpation; and for this Purpose caused all the Forces he had raised to Muster at *Constantinople*; amongst which were Multitudes of *Goths*, *Alans* and *Hunns*. For his Chief Officers, he made choice of *Timaeus* to Command the *Romans*, together with *Stilicho*; or *Stelicho*, as *Zosimus* calls him, who Writes, That he was Married to *Serena*, *Theodosius* his Brothers Daugh-

Sect. 5. *ter.* The *Barbarians* he Committed to the Leading of *Gaines, Saules, and Bacurius* an *Armenian* Born, one of Honest Principles, and well Skill'd in Martial Affairs. Amongst the Officers of the *Goths, Alarich* now Served, that Famous *Alarich* that afterwards took *Rome*, and first of others brought the *Barbarians* to Invade *Italy*. Having thus Prepared for his Expedition, *Zosimus* tells us, That his Wife *Galla* died in Childbed, when he was ready to set forward, whom having once bemoaned after *Homers* manner, he departed. But *Arcadius* his Son, whom he had formerly declared Emperor, he left behind him; and because he was but Young, he Committed him to the Charge of *Rufinus*, who was now to Govern all Matters according to his own Will, and Appetite. As to the Time when *Theodosius* began his March, we find by the Dates of several Laws, that in the Months of *January, February, and March*, he was still at *Constantinople*, where, while he continued, by his Endeavours for True Religion, and the removing of Grievances from his People, he Exercised himself as became one who was about such an Undertaking, wherein the Safety of the State, and his own Person and Family was concerned. But certain Customs there were of these Times, to which he could not but submit; some things which could not so well be amended. The Empire was so great, the Provinces so many, and so Manifold the Businesses arising out of them, that besides the ordinary and set Ways and Courses of Administring Justice by his Officers, there was a Necessity of his being instructed and moved by those about him in Particular Concernments of Private Persons and Bodies Politick. Those that thus Solicited and Moved, were termed in this Age *Suffragatores*, and their Solicitation or Moving *Suffragium*, for which they were wont to receive Rewards, and that by Agreement from their Clients. Hereupon much Oppression and Contests often happened, while sometimes those that had obtained their Desires, and done their Business, were ingrateful to them that had imployed their Time and Labour therein, and often, they that Solicited in their behalf, threatned, troubled, and exacted more, than was just and reasonable, from the Suitors.

Theodosius prepares to go against him.

22. To prevent these Disorders, he published now an Edict, Inscribed to *Rufinus*, before his departing from *Constantinople*; wherein he Ordains, in Case such a Promise have been made, of what force it shall be, and what Action it shall produce. In the first place he declares, That such Agreements shall be performed, and he grants Cause of Action against those that had so engaged themselves, otherwise than what *Julian* formerly Ordained concerning such as procured Persons to solicit for Honours to be conferred on them, and promised Rewards for obtaining the thing desired, that if those that Solicited had already got into their Hands the Fee or Reward they might keep it; but otherwise no Liberty to Sue would he grant. But this Indulgence he would have only extended to such as had obtained what they went about. And in Case the Party had agreed to give any thing Moveable, as Money, an Horse, or other Things, the Delivery of the Thing should suffice to alter the Propriety in it, without the Intervention of any Writing, or any Publick Record to be made thereupon. But in Case any Thing Immoveable, as Land lying in City or Country; then for changing the Propriety, he requires Three Things: First, That it be done by Writing, as is requisite in other Matters of Consequence; then that there be a real Delivery of Possession; And in the last Place, That the Matter be Registred or Attested by Publick Acts: otherwise if any of these Solemnities be wanting, there shall be no transferring of the Dominion, or, as we say, the Propriety in the Thing; as in other Cases, all are null and void, which are not transacted in the Essential Forme prescribed by the Laws. And good Reason there was, that Lands and Inheritances should not be transferred without these Conditions, lest Persons distressed, when they had Business at Court, should, by the greedy Courtiers, be drawn in, and cheated of their Estates, who would often, out of Covetousness, promise to do what they could not, or ought not to attempt, or would not be worth what they so greedily desired in way of Recompence for the Undertaking. On the other side, a Concurrence of all these Circumstances would shew, that the Agreement was transacted *bona fide*, without any Cheat, or Circumvention. In the last Place, the Emperour declares, That in Case the Party had by a Writing called in those Days *Communitorium*, (wherein he expressed his Desire to have the Thing done, and promised to give so much in Reward) obliged himself to such and such Terms; if hereupon only, and without the other necessary Solemnities, the *Suffragator* Seized upon any Lands or Immoveables, he should be Outed again of such Possession, as guilty of Rashness and Violence, and the Thing be restored to its former Owner, the Inva-
der

L. 2. Si in
tum petatur
Suffragium.
Cod. Tit. 1.
2. tit. 29. D.
4. Non. de
tit. Const. 1.
L. un. Cod.
Just. tit. 1.
Suffragium.

Sect. 5. der being excluded from any Claim or Suit for that Thing for which he ought, " *A.D.*
without being his own Judge, in a fair way to have proceeded. 3 9 4.

23. Now to attend *Theodosius* on his Journey Westward, on the Thirteenth of *May*, we find him at *Heraclea*, by the Date of a certain Law, whereby he forbids, *l. 18. d. con-*
That any Officials belonging to any *Consularis* (as of *Palestine* or *Phenice*) ta- *ort lib. Cod.*
ken from out of the Office of the *Comes* (of the *East*) or out of that of *Rufinus*, " *l. 1. d. 3.*
to whom he gives the Title of *Culmen vestrum*, be suffered to fly, and betake " *l. 1. d. 3. Ab-*
themselves to the Army. From *Heraclea* he removed to *Hadrianop'le*, where he " *ut a Cod. Just.*
lay on the Seventeenth of *June*, as appears by another Edict of Religious Concern- *l. 23. de Her-*
ment, not in this Place to be medled with. Henceforth we cannot trace him by *aticus Cod. Th.*
any Dates of Laws, there being none Extant that after this time can be attributed
unto him. But from *Thrace* he moved into *Pannonia*, while, in the mean time,
Eugenius, encouraged by the South-sayings of *Flavianus*, who promised him Vi-
ctory, which should be accompanied with the Ruine of Christian Religion, being
aware of his coming, got together a vast Body of Men. Resolving to expect him
rather at the Threshold, than within the Bowels of *Italy*, he quitted *Mil'm*, toge-
ther with *Arbogastes* and *Flavianus*, affirming by Oath, That when he came back, he
would make a Stable of the great Church, and cause the Clerks thereof to take Arms.
Proceeding as far as *Aquileia*, he came and Incamped himself by a River called *Frigi-*
das, distant some Thirty Miles from that City, and as *Sozomen* writes, he seized *Lib. 7. c. c.*
and secured the *Julian Alps*, being the Gates of *Italy*, as affording but one Passage, *22, & 24.*
Fortified on both sides by vast Rocks and Mountains. *Theodosius* from *Pannonia*
Marched directly to these Straits, and driving out the Guards set to defend them,
quite contrary to the Expectation of the Enemy, brake through, *Flavianus* here
dying, when he might have escaped, as by mistake some write. Having without
much trouble passed the Mountain, on the Seventh of *September*, he descended into
the Plain, and offered Battel, which was as readily accepted, the Soldiers on both
sides being inflamed with a Desire of Fighting. *Theodosius* Erected the Standard of
our *Saviour*, and *Eugenius* that of *Hercules*. The Emperor disposed his Army into
two Battalions, in the one of which stood the *Romans*, and in the other, such *Barba-*
rians as had come over to his Service. The *Romans* against *Romans* fought Man-
fully, and the Success was doubtful; but the *Barbarians* on the Emperors side were
worsted, and forced to retire with great Slaughter; and besides, aloof on a Hill, he
discovered a Body of Men, which he apprehended might fall down upon his
Back.

Breaks in
Italy.

Defeats him
in Battel.

24. Being in such Straights as he knew not how to extricate himself, he fell down
on his Knees at the Head of the Army, and humbly Implored the Assistance of his
Maker, saying, *Help me O Lord I beseech thee, lest the Pagans say, where is now the*
God of Theodosius. And his Prayer had a speedy Return. For presently the Offi-
cers of that Party, which he saw upon the Mountain, sent to him, and offered to
come in upon Honourable Terms of being preferred by him, which he readily
granted, and having neither Ink nor Paper at Hand, he took a Writing Table from
some there present, and therein promised, that they should have the Command of
those Forces they should bring over to him. Hereupon out of Hand they joyned
with him; but still the Event seemed very dubious, till *Bacurius*, who commanded
the *Barbarians* that were disadvantageously engaged, stirred up his own Spirits, and
the Courage of his Followers to such a Degree, that falling on with greater Vio-
lence, and renewing the Fight, they either killed, or forced to run, those with
whom they were engaged. In other Places however, the Enemy stood his Ground,
and *Eugenius*, for whom they fought, riding up and down, exhorted them to Con-
stancy as secure of the Day, telling them he was well assured, that *Theodosius*, out
of desperation, would speedily lay violent hands upon himself; but he desired
they would not let him so escape, but bring him alive into his Presence. Now
arose a most violent Tempest, such as no Man alive could remember, which drove
with that violence upon the Army of the Usurper, that they could not keep them-
selves in order. It's reported, That the Arrows they let fly against *Theodosius* his
Men, were retorted back upon those that shot them; that their Targets were for-
ced out of their Hands, and driven against their own Faces, and their Eyes so di-
sturbed with Wind and Dust, that their Sight was thereby taken from them. On
the other hand, such Darts or Arrows as *Theodosius* his Soldiers Shot, did double Ex-
ecution, whereby Animated to so high a Measure as the Matter suggested, with all
Alacrity they improved the Advantage, and so far prevailed upon the Discouraged
Enemy, as quickly to put them to the Rout. *Sozomen*, *Orosius*, and others, re-
late

Sect. 5.

late the Matter after this Manner; though a Story different in Circumstances be told by *Zosimus*, and such as follow him. *Zosimus* tells us, That *Theodosius* passing the *Alps* in so unexpected a manner, terrified *Eugenius* with the suddenness of his coming. That the Emperor thought fit first to try what the *Barbarians* could do, and sent *Gaius* to engage, who was followed by all, both Horse and Foot, that consisted of the Northern Nations. Against them *Eugenius* led forth his Men, and the whole Armies engaged, when in the time of the Fight, so great an Eclipse of the Sun happened, that the greatest part of the time it seemed to be Night rather than Day. And the Battel being fought as it were in the Night Season, so vast a Slaughter was made, that the greatest Part of *Theodosius* his Confederates miscarried, together with *Bacurius* their Captain, who most valiantly exposed himself to all Dangers before his Men.

A.D.

394
P. 778.

25. The real Night coming on, both Parties retreated to their Camps, and *Eugenius* pulled up with Victory, distributed Rewards to such as had best deserved; and permitted them to take their Supper, as not thinking of any more Fighting after such a Defeat. *Theodorite* relates how *Theodosius* was now advised by his Captains to put off the Matter till the following Spring, and then to come with greater Forces, to be able to grapple with the Usurper in Numbers. However, *Zosimus* farther Writes, That when *Eugenius* his Men were taking their Repaste, *Theodosius* perceiving the Day to be Dawning, with all the Remainders of his Forces fell upon them, while they yet lay upon the Ground, and Killed them, when they dreamt not at all of any such Thing. That going on to the Tent of *Eugenius*, he fell upon his Guard, and Killed also most of them, but some fled for it, and were taken, with whom was found *Eugenius* himself. He being taken, his Head was Cut from his Shoulders, and being set upon a long Pole, was carried round about the Camp, to let those of his Party, who still stood refractory, know, that seeing they would be Esteemed *Romans*, they ought to return to Obedience to their Emperor, especially the Tyrant being now Extinct. And in a manner, all those who survived the Battel, came speedily in to him, Saluted him with the Title of *Augustus*, and begged Pardon for what they had done; which, saith the Writer, he readily granted. As for *Arbogastes*, he desiring not at all to try the good Nature, or Clemency of the Conqueror, fled away into the highest and most Impassable Mountains, where perceiving that all Places were searched by those that were sent to find him out, he killed himself, thinking it better to die a voluntary Death, than to be taken by the Enemy. Thus much writeth *Zosimus* concerning this Victory of *Theodosius*. Others, as to the End of *Eugenius*, say, That certain of his Troops being convinced of their folly to fight against Providence, as despairing now of the Victory, followed their Captain *Arbitio* to the Emperor, and begged Pardon, who were thereupon presently received, and ordered to fetch *Eugenius* to his Presence. He seeing them come in great hast, and concluding it was with News of the Victory, instantly demanded if they had brought *Theodosius* along with them; to which they answered, That they came not to bring him, but to carry himself to the Emperor; and therewith pulling him from his Chair, tied his Hands behind him, and in that Posture carried him along with them. *Theodosius*, when he saw him, recounted to him what Villanous Acts he had committed against *Valentinian*, and jeering him for his Religion, and putting his Confidence in *Hercules*, he Pronounced that Sentence against him which he had deserved, and his Head accordingly being cut off, and set on a Pole, at the sight of it, his Followers submitted themselves.

And puts him
to Death.

26. Whether but one, or two days the Fight continued, is not so material; but so writes *Orosius* and others, who, by their Nearness to this very Time, might have as much reason to know as *Zosimus* or *Theodorite*. This is not so Considerable a Circumstance, as that which several relate concerning the Tempest, and the Dreadful Effects it had upon *Eugenius* his Army. And although they be Christian Writers, which relate the manner of this Tempest; and the Consequents thereof, yet are there sufficient hints, and that from Pagan Authors concerning the Truth of the same. *Zosimus*, as it appears by his own Story, was not utterly ignorant of what passed; but to avoid all Pretence of an extraordinary Cause, he tells a Tale of an Eclipse of the Sun, which then should happen at the very time of the Fight; whereas the Sun was Eclipsed at that Time we lately mentioned, and the Astronomical Tables are utterly silent as to any Defect of this Luminary, near that of this Engagement. But he took Things upon Trust, and very slight Informations, not caring what he wrote, so he could but drive on his great Design of raising prejudice in his Readers against Christian Princes, and Christianity it self. He tells us, That *Bacurius* was by

ect. 5. by Birth an *Armenian*; whereas *Rufinus* Writes, That he was an *Iberian*, a King of the *Iberians*, and that he was *Comes Domesticorum* to *Theodosius*; that he was a very good Religious Man, being familiarly himself acquainted with him at *Hierusalem*, when he lay there as *Dux* of that Limit; and from him he acknowledges to have received that Relation which he makes concerning the Conversion of the *Iberians* to the Christian Faith in the Days of *Constantine*. As full of Truth is that which he writes concerning *Theodosius* his taking *Honorius* his Son along with him in his Expedition against *Eugenius*; whereas *Claudian* the Poet, besides others, expressly writes of his sending for him after the finishing of the War, and Poetically mentions the several Places, through which he passed into *Italy*. And as for the Tempest we now spake of, this same *Claudian*, though as earnest a Pagan as *Zosimus* himself; yet having told how *Theodosius* easily passed the Straits, adds, That a vehement Wind from the Mountains overthrew the Enemies Forces, and drove back their Arrows and Pikes against themselves: In Conclusion, That the Air and Winds and all fought for *Honorius*, to whose good Fortune it is that he ascribes the Victory.

seth the
ory with
r Mode-

27. But as to the manner how *Theodosius* used the Victory he had so wonderfully obtained, *Zosimus* tells you, That when the Army of *Eugenius* submitted, and asked Pardon, he easily * granted it. And well may we believe him from that Account we have from others concerning his incomparable Clemency shewed toward his Enemies. Some that were yet no Christians, but Conscious of their own Guilt, had fled to a Church, and there taken Sanctuary; upon this occasion he caused them to be made such, and Imbracing them with Christian Love, he took nothing from them, but on the contrary conferred Honours on them. He suffered none to exercise private Revenge upon those that were Conquered. He managed not his Civil Wars, as did *Cinna*, *Marinus*, *Sylla*, and such like, who would not suffer them to cease when ended; but he rather sorrowed that there was occasion for them, than suffered any to be injured by them after they were brought to a Period. After the Victory he removed to *Milan*, not to *Rome*, as *Zosimus* again mistakes; and thither he sent for his Son *Honorius*, from *Constantinople*, finding himself now, it seems, indisposed, and falling into a Dropsie, which accelerated his Death, and accomplished it within a few Months. In the mean time we hear little of *Arcadius*, and his Governor *Rufinus*, their Transactions at *Constantinople*, only two or three Laws we find made by him in the Absence of his Father. The first of them (for his it must be, if the Place be not mistaken in the Date) is concerning publick Buildings, as to which the Governors of Provinces were at this time to be reprehended. Some of them were grown so Audacious, as when a New Work was made and finished at the Publick Charge, yet they would cause their own Names to be put upon it in room of the Emperors, as Founders and Authors of the Building; whereas they were only allowed to do it as Curators, as having the Charge and Oversight of the Work. But though the Emperors generally (*Trajan* excepted, who was called *Herba Parietaria*, *Parietina*, or *Pellitory*, as *Ammianus* hath it) were Modest and Cautious this way, so as not to inscribe their Names upon Buildings, though repaired in their own Time, but to renew the Name of the Founder; nay, though they permitted the Governors to set theirs upon Walls, in that manner, and with the Restrictions lately mentioned; yet would not they contain themselves within the Bounds prescribed by Reason and Modesty. To give a Check therefore to this Idle and Ambitious Course, *Arcadius* declares such Judges guilty of Treason, as Usurping those Privileges which belong to the Prince alone; private Persons excepted, who if they built any Work at their own proper Cost and Charge, were (and that with Reason) permitted by them to transmit their Names to Posterity. But further, whereas these Governors, out of the same Principle of Ambition, would now ordinarily neglect the Repairing of Old Buildings, and Erect New Structures; this Law imposes the same Penalties upon them as formerly had been done, as that they should refund such publick Monies as they had bestowed upon these Works; moreover, finish these Buildings at their own Costs and Charges; and over and above, that they should not be suffered to depart out of their Provinces till both were accomplished. In like manner we have seen, that such *Duces* as, during their Government, had neglected to build Towers or Castles upon the Borders, were forced to continue there till they had done it. And that Governors of Provinces were constrained to abide a certain time in their Jurisdictions, to see what Complaints would, by the Provincials, be brought against them.

Sect. 5.

Theodosius
dies.

28. The CCCXCV. Year of Our Lord had for Consuls Sex. Anicius Olybrius A.D. 391
Hermogenes, and Sex. Anicius Probinus. Rufinus still continued Prefectus Pre-
torio of the East, Dexter bore this Office in Italy, and Theodorus over Gall. The-
odosius now was thinking of his Journey Eastward, purposing to return speedily
to Constantinople, but was arrested by Death before he could accomplish such Pre-
parations. And upon the Departure of so great a Soul, several Accidents hap-
pened, which were reputed as Presaging such a loss. For betwixt the Victory, and
his Death, from the Month of September, some Countries were shaken with Earth-
quakes; excessive Rains fell, and so great Darknes happened, as ordinarily had not
been observed. But let us hear what Zosimus tells of him at parting, after the Battel
fought with Eugenius. " Things, saith he, having thus succeeded, Theodosius, "
being now at Rome, Declareth Honorius his Son Emperor; Stilicho being "
made Commander of the Legions in these Parts, and withall assigned Tutor to "
this his Son. Now did he call the Senate to him, which was fixt and constant to "
the Religion and Rites of their Fore-fathers, neither could hitherto be prevailed "
with to consent to such things as had been done in Contempt of the Gods. He "
made a Speech to them, wherein he advised them to Correct their former Error, "
(for so he termed it) and to imbrace the Faith of the Christians, which promi- "
sed to its Followers Freeness or Indemnity from all Sin and Impiety. But none "
of them being willing to admit of what he propounded, nor to depart from the "
Rites of their Ancestors, which had been derived down to them from the first O- "
riginal of the City; and before them to prefer such an Assent as was void of Rea- "
son, (for they alleged, that for almost One Thousand and Two Hundred Years, "
in the Observation of those Rites, they had Inhabited an Invincible City; and if "
they should change them for others, they were ignorant what might happen) "
he then said, that his Exchequer was burthened with the Expence that was made "
upon Sacrifices and Offerings; and therefore he would abolish such Matters, for- "
asmuch as he neither could approve of such Things, and knew for certain, that "
the Necessities of the Armies required a far greater Expence. The Senate an- "
swered, That Sacrifices could not rightly be made, but at the publick Expence; "
yet notwithstanding the Law for such things was abolished, and other were things "
suffered to lie neglected, even whatsoever had been transmitted from their Ancestors; "
and thereupon the Roman Empire, by little and little was diminished, and became "
the Home, or Abiding Place of Barbarians; or rather having lost all its own Inhabi- "
tants, was now (in his time) reduced to that Condition, that not so much as the "
Places where Cities once stood could be discerned. That so Matters stand, the "
following Narration in Particulars shall demonstrate. But the Emperor Theodo- "
sius having delivered Italy, Spain, Gall, and besides, all Africke, to his Son Hono- "
rius, died in his way to Constantinople; and his Body, being duly Prepared, "
was Buried with his Predecessors, in the Burying-Place of the Emperors, at "
Constantinople.

The time of
his Death.The Dirt cast
upon him by
Zosimus.

29. As he began, so he ended, in the Opinion of Zosimus, an Enemy to the
Gods, and the Religion of his Fore-fathers; and how can any imagine, but such an
Irreligious Person should also be Luxurious, Effeminate, Sluggish, and what not?
to make him up a Compleat Monster? But before we take a view of his Features in
this kind, we must first declare, that he died at Milan, after his Son Honorius his
Arrival from Constantinople, on the sixteenth day of January, when he had Reigned
sixteen Years wanting a day or two, in the fiftieth Year of his Age, as some have
reckoned, in the sixtieth, as others, and as some, most improbably, in the sixty fifth.
With what Character Zosimus hath set him forth, we have already sufficiently seen,
viz. as one given up to all Vices of Luxury, to his Belly, and his Ease. These Vi-
ces of his Temper caused other disorders in the State. For thence came it to pass,
that to please his Appetite, he maintained a great Number of Cooks, Butlers, and
such like, about him. This vast Expence, and his Profuseness to unworthy Persons,
emptied his Coffers so much, that to fill them again he took up base and unworthy
Courses; one in particular, than which nothing could be more disadvantageous to
to the Empire; which was selling Places of Magistracy, and Governments of Pro-
vinces, to such as would give most for them; So that one might see in the Forum
those who had followed base Trades and Professions to wear the Ensigns of Autho-
rity, and deliver up the Provinces to such as would give the best Penny worth. In
Conclusion, as hereby he ruined the Civil Government, so did he the Military, in
making so many Magistri Militum, and other great Officers; for finding of Pay
and Provisions for whom, the People were also miserably harraased. This is the sum

Unde etiam
Theodosius.

of

of that Infamy wherewith *Zosimus* designed the memory of *Theodosius* to be loaded. A.D. 395.

30. In a scrutiny into which we shall proceed in no other terms, than we did in the matter relating to *Constantine*, and search for naked truth without any partiality; for the finding out of which, nothing can be more convenient, than to hear the Testimonies of other Persons, who had as much reason to be prejudiced against him, upon the Account of Religion, as *Zosimus* had. We shall not repeat those great things that are said of him by *Pacatus* the *Panegyrist*, of which we have already given an Account upon his Conquest of *Maximus*, but take notice that before he comes to the Defeat of that Tyrant (which was the occasion of his Speech,) he premiseth other things in his Commendation. He begins with his Country, which was *Spain*, and commending it for its Fertility in Fruits, especially in producing so great Persons, as were *Trajan* and *Hadrian*, he magnifies it most in bestowing him upon the *Roman Empire*. From his Country he comes to his Family, and affirms that, if others had Surnames given them from the Nations which they had Conquered, his Father *Theodosius* might well be rendred Famous to Posterity by those of *Saxonicus*, *Sarmaticus* and *Alamanicus*, having beaten these several People, as well as forced back the *Scots* into their own Fens. Herein he asserts the Nobility of the Person to whom he speaks, that He was the Son of him who ought to have been Emperor, who would not have lessened but suited the Grandeur of the *Roman Dominion*, not only by his Valour and Conduct, but also by the Stateliness and Dignity of his Person. And he no less commends him the Son, for the greatness of his Presence and Personage, as being answerable to his Fortune; insomuch that he affirms it a Question made by them who saw him, whether they were more won upon by the Vertue and Goodness of his Mind, or the charmings of his Countenance. He tells them that he knows how, not long since, he had rejected such Commendations as this: But he intreats him to permit that this may make up but a part of his, which was wont to constitute the whole of that praise which was given to others. It's true, his Virtue deserved an Empire; but withall, his Beauty and Comeliness, added her suffrage also with that of Virtue. Virtue made it behoveful that He should Reign, but his Shape and Stature rendred it decent that he should so do. And indeed, in declaring him Emperor, so far was any thing from being omitted which should be considered of; that a respect to his years was also had, a thing of such Importance with their Ancestors, that in bestowing not only the greatest places of Magistracy, but also those of *Prætor* and *Ædilis*, a Persons age was inquired into; neither was any man (ordinarily) preferred for his Nobility, for Favour or Reward, to such Offices, before the terms prescribed by the Comitial Law. And with good reason. For such as will by Virtue be Adopted in the slippery time of Youth, do stumble to prevent falling. He instanceth in *Sulla*, *Catulus* and *Cicero*, who by Luxury made Shipwrack of Virtue, and being tossed by the Tempest of Vice, were through mature Age, scarcely rescued from the Peril of Drowning.

31. But these things were but the gifts of Fortune; he tells him he will now descend to such as he ought to himself. For, that glory which he had formerly obtained by Martial Acts, performed with so much toil were not to be ascribed unto her who was worthy of reprehension in this respect, that whom she had destinated to a Scepter and a Throne, she never used with any manner of Indulgence. But as severe Fathers are sharper with those Sons they most love, so she trained him up in many Wars, and difficult times that she might fit him by such preparations for the Empire. Before he would come to speak of what he had done in mature Age he saith he would touch at what he performed joyntly with his Father, viz. that with him he passed over Winters under Skins, or Tents, sweet out Summers in the toils of War; either by Watching or Fighting spent both Nights and Days, and fought battels of great Consequence both by Sea and Land. Then when by reason of a potent Adversary he returned to a private life in *Spain*, he enumerates in how many several sorts of labours he busied himself, for the Relief of his Friends and Neighbours, and his own Exercise, with as great Commendations, as the *Curii*, *Coruncani* and *Fabricii*, betook themselves to their Manual works when disengaged from Affairs of the State; and in this respect with greater praise; for they did it out of Want and Poverty; which pressure lay not at all upon him. For, Poverty diminisheth the Honour due to Patience in Labour; and that Labour is of greatest Example which is performed without Necessity. As the Heavens are in perpetual motion; and all things are preserved and

32.5. perfected by a constant Revolution, so had he been exercised without intermissi- AL
 on in one kind of Employment or other, from *Spain* to *Sarmatia*, from *Iberus* to 3 9
Ister. And when he had arrived at those years and such a standing in the Milita-
 ry Profession, as might have excused him from taking such pains; yet did he not
 when he might only have commanded, divide his time betwixt Business and Idle-
 ness; and slacken his Industry as one who would live upon that Honour and
 Repute he had already got. But he would either in the first place, or to be sure
 with the first, discharge all Duties belonging to a Souldier; stand Sentinel, Scout
 and Watch when occasion served; and as his lot fell, toil at the Fortifications; an-
 ticipate the Enemy in the choice of Ground; order the Camp, first begin the Fight
 and come last from it: in conclusion, in Council and Advice demean himself as a
 Captain, and by Example as a Souldier; so that even then at that time it might
 have been understood, that others fought for the Emperor but he for himself.
 Yet this was most to be admired, that whereas he so demeaned himself in every
 thing, that it was behooful he should Reign, yet with design that he might Reign
 he never did any thing at all.

His modesty
in refusing the
Empire.

32. As evidence for this he alleageth and instanceth in that Day that was Emi-
 nent for the Publick Good it brought along with it, wherein when he was call-
 ed to undertake the Government, he endeavoured to shun that Empire which
 was offered him: neither did he this only in show, that he might seem to be for-
 ced unto it, but earnestly and long; and as one that had hope to prevail. Nei-
 ther was there any cause of Dissimulation. For the Emperor, he tells him, did
 not set upon him at home, and when none were present as to try him, but pub-
 lickly and in the Court or *Comitium*, when he could do nothing else; so that
 except he had indeed and in reality been unwilling to accept, he might have done
 it Securely and with Reputation enough. Here the *Panegyrist* personates the
 Commonwealth, which, now frustrated of that hope she had conceived of him,
 by his backwardness to the Promotion, he introduceth thus speaking to him:
*Thinkest thou, O Theodosius, that the Fates have been so little tardy themselves, that
 thou also indeavourst to increase their Delays? Art thou ignorant that thereby thine
 own Concernments are impaired? Knowest thou not that thou thyself art involved in my
 Decays? Whatsoever the Goth doth waste, whatsoever the Hunn doth ravenously
 snatch, whatsoever the Alan takes away, that in time to come will be missed by Ar-
 cadius. I unfortunately have lost Pannonia, I now mourn for the Destruction of
 Illyricum, and daily behold the Ruine of Gall. The Elder of the Emperors is not
 sufficient of himself to undertake and manage so great Wars: the Younger, though
 he is like to prove most Valiant, yet at present is in his Minority. Dost thou
 stick at erecting and supporting me thus fallen, which, that thou maiest not defer thine
 assistance, cannot but be late enough performed. Dost thou thus requite me, me who
 desired thee for my Prince, when in a happy Condition? When peaceable Nerva,
 Titus the Love and Delight of Mankind, and Antoninus, memorable for his Piety,
 were possessed of me; when Augustus adorned me with Walls, Hadrian instructed me
 by his Laws, and Trajan added to my Bounds and Limits, I did not think my
 self happy, because, as yet I was not thine. What wouldst thou do to me if thou
 wast in thine own Power? Behold, he who is my Lord intreats thee; behold, he
 who is yet thy Lord and Master beseecketh thee, and he who may compel, yet chu-
 seth rather to request. It is now as unlawful for thee to refuse that Sovereignty
 which is conferred upon thee by an Emperor, as it would have been wicked to have
 accepted it without him.*

33. Thou only, O Prince, thou only, (thus he proceedeth) of all that have hi-
 therto Reigned, hast made thy self a Prince indeed. Some the purchased suffra-
 ges of the Legions, others the vacancy of the Court, and others Royal Affinity
 have imposed upon the Commonwealth: thee neither Ambitions seeking, nor Oc-
 casion, nor Kindred have created; for thou wast a stranger to the Emperors Fa-
 mily, and wast made the third in order, and being averse wast compelled to it,
 I say averle. Hear you this you publick Parricides, who forgetting your Faith
 and Allegiance, have taken the Scepters of your Masters, and by no less danger
 than wickedness, setting your Lives at Stake for the Empire, have purchased a Roy-
 al Name with the price of Blood. Here the Sovereignty itself hath suffered
 a repulse, and one hath appeared candidate that he might not be elected. Will
 future Ages believe this, and give us glorious credit in this matter, that in ours
 such a thing hath been done, which in no times before or after hath been attem-
 pted, nor is like to find any Example? But he who shall understand the course
 and

Sec. 5. and manner of thy Life will easily give his assent, neither will doubt the Empire " A.D.
to have been refused by one that hath Reigned in such a manner. For, they, " 9 5.
even they, may well desire, and that greedily, to Reign, who are delighted with a "
manner of life that's loosed from the restraint of Laws; whose cruelty in killing "
the Innocent, Covetousness in taking the Estates of private men, and a Lust to con- "
sminate all honest things, required some Law and impunity to support them. What "
did it concern you to be Prince, who though Emperor was to be a private Per- "
son? except perhaps at this day you are more remiss in your love and respect "
to Modesty, less fearful to shed mans Blood, or have a greater Appetite after "
those things that belong to others. You are the same you were, and so much "
you can now do, as formerly by the Laws you might have done. You measure "
Sovereign Power by being in a condition to do good, not by security in sinning. "
One thing your Advancement hath done for you, that now we are satisfied, that "
even under other Emperors you lived by the prescripts of your own Laws. For "
He who doth nothing licentious, when he can with impunity, never had a desire to "
do it.

good Ex-
ample when
had ac-
cepted it.

tempe-
rance and ab-
stemiousness.

34. As soon as you had undertaken the Government, not content to be in your "
own Person, beyond (or free from) Vice, you set your self to rectifie and amend "
the vitious practices of others; and that by methods of moderation, that you might "
seem rather to persuade than compel them to honest courses. And because ei- "
ther by reason of a long custom in the East, or the remissness of former Princes, "
so great Luxury had infected many persons, that the Habitual wont of Wanton- "
ness, now grown strong, appeared as not easie to be amended by other Applica- "
tions; that no man might think himself injured, You would begin your Censure "
upon your self, and by retrenching the Expenses of the Palace, not only by rejecting "
what was superfluous, but scarcely admitting of a necessary Allowance, that which is "
most difficult in nature you performed, making good men such as were willing now to be "
reduced. Would any be grieved to admit of such restraint as he sees his Prince im- "
pose upon himself; or think much to abate of his private Luxury when he beholds "
the Emperor, who hath all in his Power, the Lord both of Countries and Men, li- "
ving sparingly and contentedly, satisfying his hunger and long fasting with mean "
and Souldierly fare? Besides, when he sees a Court, in every part of it with more "
hardship to be indured than the Gymnasia (or places of Exercise) of the Spartans; "
abounding with examples of Pains-taking, Patience and Frugality? When none "
therein is to be found, who shall dare to require as additional to this Royal manner "
of Diet, either the Fish of remote Shores, the Fowl of a foreign Air, or the Flowers "
that are not growing at the same time? These Delicate and Effeminate Princes, "
to which the Commonwealth was often forced to submit, never thought them- "
selves splendidly served, except in Luxury they turned over the whole year; ex- "
cept Roses swam in their Cups in Winter, except in Summer they corrected their "
Wine of Falernum, which they drank in capacious Gems, with cold Ice. Our "
world was too strait for the Throats of these men. For not measuring the good- "
ness of the Dishes set before them by their Taste, but Expence; they were "
only satisfied with such Meats as were furnished either out of the utmost parts of "
the East; out of Colchos lying beyond the Roman Pale, or such Seas as are Fa- "
mous for Navigation, which the Perils of men snatched as it were from unwilling "
Nature, which parted not with them, without Reluctancy. To say nothing of "
those Fowls, who by an infamous sort of choice were inrolled in the Provinces; "
and those Cohorts, which under the Banners of Hunters served at Banquets; have "
we not heard of a Prince, that had not only his Dinners, but his Dishes of the "
value of an whole Patrimony of a man of Equestrian Degree? Your Meals, O "
Emperor, being more spare than those of Ordinary Tables, are only furnished with Pro- "
visions of Place and Time. Hence comes it to pass that all are ashamed of Luxury, "
and now a love and regard to Parsimony hath prevailed, and the Threats of Laws "
having nothing to work upon; every one hath repented in private. For so it is; "
so it comes to pass; an Austere Command and Correction exasperates; but pleasant "
and acceptable is that which proceeds from example.

35. Such Influence had this Conduct of yours upon the Manners and Courses "
of Men. But, yet nothing so much conduced to the rooting out of Vice and "
Implanting of Virtue, as this, that you constantly addicted your self to the socie- "
ty of those Persons whose practice ought to be imitated universally. To say no- "
thing of those upon whom you light the very first day of your Promotion, Per- "
sons of such Virtue, that they might seem not taken out of the Crowd, but de- "

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The good
Councillors
chose at his
first coming
in.

His unparal-
leled friend-
ship.

signedly chosen out of a multitude. Afterwards, how many, and how great, did you make choice of for the Government of Provinces, the chief Commands in the Armys, and for your Inward and Trusty Councillors? You having made two several Choices, the one out of Judgement, and the other as it Hapned; it's uncertain whether your Wisdom, or your Fortune procured for you, the better men, having either received or found men of that worth and fitness, that the former deserved to be retained, and the later by all means to be chosen. But what ever Emperor was he that thought a strict observation of Friendship was reckoned amongst such things as commend a Prince? This virtue is low and humble, and it's doubtful indeed whether for a virtue it was formerly esteemed; whether worthy to enter into a Palace, or rather to be a Companion for Dangers. You might sooner procure money to be paid out of the Treasury, than any faithfulness out of an Emperors heart. The best of them all, it's true, would make rich his Attendants, but never love them; he knew well how to do them kindnesses, but was ignorant as to any Cordial Affection. You have not only recalled Friendship, formerly only a Name, and belonging unto private Persons, into the Court; but being first clothed with Purple, and adorned with Gold and Precious Stones have received it into the Throne it self, and in Deeds not Words only, have asserted, that *The mind of a Prince by so much ought to be the more frank and kind to those about him, by how much his Fortune and Estate is more excellent than that of others.* You carry it to them with equal fidelity and command of your self; and give that to your Familiars, which you your self would have desired when a private man. Yet how could any one have wished for those things which most have obtained in your Government? I speak not of those Honours which the Emperor is constrained to confer. Is any *Dux* created? The Discipline of the Camp requires it. Is any raised to the Dignity of *Præfekt*? The Province must have an Head. Is a *Consul* designed? The year must have a Characteristical Name. In those chiefest and most eminent Employments there is some Advantage made of these deserving Persons. You by a new way of Benignity, confer that Honour upon your Friends, which may be wholly their own; and nothing thence redounds to your self, but the pleasure of bestowing it; who having at Home Sons of your own, (these two Hopes and Eyes of the Commonwealth) yet deferred to nominate them, and adorned first your Friends with the Consulship. Now, truly, had that Divine-man, the Author of the publick felicity, your Father, been alive, what more could he have expected from his Son, than to have been preferred before his Grandsons? You have therefore done for your Friends so much, that you could not have done more for your Father. O singular design of your kindness! That Dignity which can receive no addition in Greatness, you augment by the timing of it. Your Friends are declared *Consuls* before your Sons; because more than *Consuls* they could not be.

36. Having farther prosecuted this Argument, at length he tells him, that Forasmuch as he can not confer Honours upon all with the same measure of Benignity (there being not place enough; what he had in his Power being of a narrower Size than his Will; and the Empire, how large soever, not being capacious enough to contain his Mind) yet, whom he hath not yet preferred, he comforts by his condescending carriage to them. And indeed some it seems have not been satisfied with this Consolation. One is honoured by being spoken to; another is made happy by being received at Table; and another Consecrated (so he words it) by a Kiss: and so all, who have promised themselves something by your Government, have either arrived at Dignity, or been satisfied with your Humanity; Humanity I say; which is as Famous, as it is Rare in an Emperor. For Pride being the ordinary Attendant on Great men, *scarcely is any to be found who abounds with Fortune, and wants Arrogance*: of which our Ancestors were so impatient, that they ever esteemed Contempt more grievous than Servitude, and for this Reason were Constrained, after they had had such Warriors as the *Tulli*, such Sacrificers as the *Nume*, and the *Romuli*, the Founders of the City, to hate the very Name of a Kingdom. In conclusion that *Tarquinius*, so much talked of, they Curled and Abominated to all Eternity; and a man that was carried headlong with Lust and Self-will, blinded with Avarice, Cruel to a Wonder, and mad with Fury, they termed *Superbus* or Proud, and they thought that word contained in it self sufficient Infamy and Reproach. But if possible it were, that *Brutus*, that defender of *Rome* Liberty, and Hater of Royalty, could return for a while to Life again, he would find this your Age filled with

His rare Cle-
mency and
good Nature.

Love

AL

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sect.5. Love of, and Indcavours after, Virtue, Parsimony and Humanity : no appearance " would he find in the whole World of Pride Lust or Cruelty : and you your self " he would find contented to live both publicly and privately, as severely as any of " the Antient Captains; as Chaste as the *Pontifices* ; as Moderate as the *Consuls* ; and " as Meekly and Familiarly as any *Client* or *Suitor* : He would change his Opinion, " after so long a time : and finding the *Roman* Dignity and Liberty joyned toge- " ther : he must necessarily confess that they are now in a better Posture, you be- " ing Emperor, than they could have been when he was *Consul*, and that *Tarqui-* " *nus* was to be removed, but not the Kingdom.

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fic of Ac- 37. In the next place, he admires him for his extraordinary Condescension in " shewing himself abroad, and receiving the Petitions and Requests of any that " would make their Addresses to him. Whereas the Custom of former Princes " was far otherwife, who imagined that Royal Majesty was diminished, and made " cheap, except with great Veneration, being Cooped up within a private Appart- " ment in the Palace, they were at a distance consulted, as in some *Vestal* place of " Secresie, being fortified by solitude, and by deep silence that was extended far " and wide. Or if ever they came into the light, and beheld open Day, they were " yet shut up in Litters and close Coverts; and being Walled about with Files of " Armed men, moved slowly, and as it were in certain Numbers, and counting all " their steps: then was the People driven away, and the Hand of the Sargeant or " Usher was not idle in keeping off the Multitude with Rods; that *this secret thing* " *might be in publick*. But this our Prince saith he, is exposed to every mans view, " and it is as free to see him, as the Day or the Sun. And yet though things free " and permitted, are apt to beget satiety and surfeit, yet never doth he satisfie the ad- " miring Eyes : the sight of him is more and more desired; and (what is strange " to be said) *being present he is yet wanted*. But can we wonder, that in " your Cities you are seen by your own People, whom scarcely any Nation hath " not seen upon its own ground, and that so often, that this Face is well nigh as " much known to the *Barbarians* as to us. And no wonder, when as passing all " Summers abroad, and Winters at home, you equally divide the year betwixt your " Enemies and your Subjects. Or if by chance there be any *Barbarians* who have " not felt the force of your Valour, yet being struck speechless, as it were by the " terror of your Name, they are very quiet. For at the thoughts of your Arms, " not only these several People do tremble which are separated from our World, ei- " ther by great Woods, Rivers or Mountains; but they also, which Nature it self " hath set at a distance, being inaccessible by perpetual Heats, continual Winters, " or the interflowing Seas. The *Indian* is not safe by the *Ocean*, not the *Bosporan* " by Colds; nor the *Arab* by the intervention of the Sun; whither the *Roman* " Name had formerly reached, the Empire now hath arrived. Shall I speak of the " *Goths* received into service, both as Souldiers for your Camp, and sufficient Til- " lers for your Fields? Shall I mention how the rebellious *Saracens* have been pu- " nished for breaking the League? Shall I hint any thing concerning the *Scythians* " being prohibited *Tanais*, and the Bows of the flying *Albanian* now rendred " ineffectual? Whatsoever Nation of the *Barbarians* was formerly troublesom by " reason of its strength, fierceness or numbers, now thinks fit either to be quiet, or " rejoyces to serve under the Name of a Friend. *Persia* it self, formerly a Ri- " val of our Commonwealth, and famous for the death of many *Roman* Captains, " now excuseth by a Compliance, whatsoever formerly it acted severely against our " Princes. Nay, that King, who once would not condescend to own himself a " man, now confesseth that he is fearful; and Worships you in those Temples where- " in he himself is Worshipped; as well by pretending to send Ambassadors as by " presents of Gemms and Silk, and his triumphal Beasts do draw in your Chariot, " *Although as yet he is not a Confederate, yet already by courting of you he is become a* " *Tributary*.

38. After this *Pacatus* descends to the occasion of this present Congratulation; or his Expedition against *Maximus*, and extolls his Prudence, admirable Clemency, and Valour as we have already seen. Now though this be uttered with extraor- dinary Wit, and with High and often Poetical Expressions in the presence of the Em- peror, to which something is to be allowed, can any imagine he would be so insulfe and so Brazen faced, as to extol him for temperance and abstemiousness, when all his Auditors knew him Infamous for the other extreams of Luxury, Effeminateness and Laziness? Would any Orator have admired *Nero* for his Clemency, or *Heliogaba- lus* for the severity of his life? But to leave him, we shall next produce the testi- mony

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And Themistius.

mony of as great an Orator and Philosopher as any in his time, in the Greek Language, and that is *Themistius*, who in these or other respects will confront *Zosimus* his Accuser. The fifth of his Orations now extant, was made in the Senate, and bears this Title, *Concerning the Humanity or Good Nature of Theodosius*. He begins with a story how, when *Lycurgus* the Spartan, entered the Temple of *Apollo* at *Delphos*, the *Pythia* or Prophetess told him, that she knew not whether to call him God or Man, but of the two, rather the former. Of this he demands the Reason of *Apollo*; why he thought fit to call *Lycurgus* a God. Whether it was for the renowned Victories, or because he gathered together the Bodies of his slain Enemies. Or was it, saith he, because he was incircled with a Guard of those that bore Spears and Darts shining with Gold? Or for that Golden Chariots, drawn with *Nisæan* Horses, went in procession before him? Or lastly, because he glistened with Golden Chains, a Train and Purple? Indeed the Entertainer of *Xerxes* at the *Hellepont*, by such Pomp and Gaudy Furniture, was drawn into Admiration, so as to term that Son of *Darius* a God. Yet I (*Apollo* would say) knew that little account was to be made of such matters, which are possessed by most wicked and foolish Princes. Whom it is so far unfit to term Gods, that it is not decent to call them Men; as even that very *Xerxes*, who was so far senseless and mad as to chastise the Sea, and to put Fetters upon the *Hellepont*. As for me, if any should ask the question whether he was a God or Man, I should little doubt how to answer it; but whether to call him a Man or a Beast, I should rather consider.

39. Neither did I doubt at all concerning *Nero*, many Ages after, Emperor of the *Romans*, when he came to this Temple, whether or no it was some God that came to me; for I knew very well that under the shape of a man a Beast was covered. Though he appeared in the posture of holding an Horse in his Hand, and in the Stole of such a Musitian, as Poets and Painters think to be acceptable to me. Because he was a Fool and a Sot, and had filled the Empire not only with external, but also domestick slaughters; I rejoiced not at his coming; but abhorred and abominated him so much, that at his going away I intangled a Fillet in his Hair, and pulled therewith his Crown from off his Head. Neither did I much Esteem *Craesus*, the King of *Lydia*, though he filled my House partly with whole, and partly with half Tiles of Gold; for that compellation of *Soft-foot* proceeded from Luxury and not from Virtue. The matter standing thus, what could I see in *Lycurgus* when I called him a God rather than a Man? Even good Nature, Justice and Piety; and Humanity the chief of all these, by the benefit of which alone Kings come to be like unto God himself. For, he having taken into his Hands the Affairs of *Sparta*, which was then in a disturbed Condition, for want of Laws, and filled with the tumults of War; supplied it both with Peace and excellent Ordinances. And was of so mild and quiet a disposition, that one who had in the Assembly struck out his Eye, whom the *Lacedæmonians* for so doing would have stoned, he preserved and saved from punishment; and having brought him Home to his own House, he informed him, and made him so pliable, that from a very bad Citizen, he made him an extraordinary good man. For that King knew very well that a Prince ought to appear superior to others, not by returning Injuries, but by well deserving of them by whom he hath been provoked, to Indignation and Revenge.

40. Therefore, saith he, ought you to answer this Question, Dear *Apollo*. If the Governor of one City, or, at most, having the Command of a small part of *Peloponnesus*, who both himself was poor, and governed poor men: who had his Commons in the *Phiditium*, and drank of the Water of *Enrotas*; if he for his good Nature and Clemency caused you to doubt of what appellation he was worthy: what would you say of him, who having the Dominion of almost the whole Earth and Sea; by the means of whom the *East* is subject to the *Roman* Empire, the *West* is quieted; whom all Nations and People do venerate, not only those that are under his Command, but such also as desire to be Governed by him, yet he is indued with such easiness of Nature, such sweetness of Manners and such Mildness, that those who were convicted of Treason, and condemned by the Laws, he hath loosed from that obligation, and recalled from the Gates of Death, to the Sun and light again. Wilt thou doubt and consider whether some God, or some man came into the Temple to us, neither wilt thou pronounce more boldly, than concerning the number of the Dust upon the Earth, that an Heavenly Name belongs to such a Prince? Not long since we looked upon this as a most excellent

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et. 5. and admirable thing, to see Gold returning from two Treasuries (of the *Largitiones* and *Res Privata*) to them again, from whom it had been unjustly exacted. *A. D. 395.*
But now we have seen Men restored from the Gate of the *Inferi* unto Life, whom the Law truly had sent thither; thence the Prince and Lord of the Laws hath reduced them: who saw plainly, that for one thing a King, and for another thing a Judge, is to be commended; for a Judge is to follow the Dictates of the Laws, but a Prince finds, that sometimes they are to be Corrected, and their severity and hardness declared; he himself being the Living and Breathing Law, not placed in fix'd and immoveable Letters. For this seems to be the Cause, why the Power of Kings is, by God, sent from Heaven upon the Earth, that there might be a Refuge settled for Men to fly to, from a fixt and constant Law, to one that's Breathing and Living. Come hither ye Muses which Inhabit this august Temple of Council, and Chant with me that Song, which I am about to sing to him for his late Humanity and Clemency. For your parts, he so Cherishes and Imbraces you, that he had made his Empress your Fellow-lodger, and has put her Statue in the same Chapel, where are placed the Images of the Emperor, and his Sons. In this respect your Company and Chorus, by such Communion and Society, will be more August.

41. But you shall not begin your Song, where *Homer* adviseth you to begin. For you shall not sing of Wrath, but of good Nature and Clemency, by which this Prince hath made it manifest to all Men, that the *Niger Calculus*, or Condemnation, is a Thing utterly hateful to him, and estranged from his Nature and Will. And therefore is the contrary most acceptable to him; for it is impossible, that when the Stone (of Sentence or Suffrage) comes into his Hands, it should not turn Colour. He has learnt indeed to toss a Target on either side, either to the right or left; but this *Calculus* or Stone he has learnt only to cast to the right, not to the left: Neither hath he two Pair of Golden Ballances, as *Jupiter* in *Homer*, of Life and Death; neither ever is that of Life pressed down by any deadly Weight or Graines; but that which tends to Death and Darkness setting downward, the other End rises up, and looks toward Heaven. Neither are there two several Barrels placed upon the Emperors Floore, as *Homer* will have two to stand upon the Throne of *Jupiter*, full of Destinies, the one of Good, and the other of Evil. For our Emperour hath no Barrel of Death, but one always full and abounding with Life, which he draws pure and clear from it, and pours upon Men. The Assertion of the *Affyrians* (he means the *Jews* or *Christians*) makes very well for this Purpose, which affirms, and that truly, the Heart of the King to be kept in the Hand of God, which cannot incline towards a Writing of Condemnation. For it is necessary, that he who writes such Letters, should fall out of that Hand which perpetually gives Life to all things. In former times, O Emperor! the Consent of the State gave you an Appellation of Divinity; not for that a vast quantity of Gold was in your Power; not for that you had abundance of Crowns and Purple Robes; not because you had the Power of making a Man Rich from very Poor; for these things are far more inferior than Heaven, and the Image thereof. But because it is in the Power of one God, and one Prince, to bestow Life; for no Man when he Invokes God calls him *Victor*, *Triumphator*, *Germanicus*, or *Sythicus*; but *Lover of Mankind*, *Holy*, and *the Saviour*. Therefore is that Virtue to be Imbraced by you: and by that means it shall come to pass, That that Hand shall never shake you out of it; as in times past it did *Nero*, *Domitian*, and the Son of *Severus*; though not *Trajan*, or *Marcus*, nor *Antonine*, your Country-men and Ancestors, from whom God derived your Government to us.

42. But, I conceive this Trophy of yours to be much more Famous, than that you set up over the *Scythians*, And yet this you have Erected alone, and without any Assistance of Arms: Nay, so far hath the Sword been from Contributing any thing in this Matter, that therein the Edge of it hath been Blunted: Never did that Son of *Philip* Erect the like, though he pierced from *Macedonia* as far as *India*: yet he easily Conquered *Darius*, and *Porns*; but he himself was overcome by the Drunkenness and Folly of *Clitus*. He did not revenge himself upon Wine with Wine, but with the Sword; neither could he bear the Boldness of *Philotas*, who to an Harlot had babbled something too Insolently, but with him he killed his Father *Parmenio*. You have not done thus, Most Divine Emperor, who for the sake of the Innocent have spared the Guilty; and have freed him who had affected certain y. in things, with another who had heard the same through a certain unhappy Fate. Of such Weight with you is every small Matter that conduceth to Clemency. And this

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this is the Cause; By Nature you are Divine: for every one hath need of little in-
 citement or provocation to that to which by Nature he is inclined. Formerly
 there was no Distinction made in Crimes of this Nature, and it was accounted one
 and the same Offence, to attempt any unlawful thing, and to have heard the same,
 though against ones Will. This was to reprove the Nature of Man, for having gi-
 ven him open and large Ears, with a Design that he should not shut them, as he can
 do his Eyes and Mouth: for this Sense alone, in a manner, is out of our Power and
 Liberty, and whatever enters there, doth it as into an House that hath no Doors,
 so necessarily must it receive all things. But you have distinguished the Hearing of
 the Crime from the Crime it self. Upon the Guilty you have thought fit to anim-
 advert no otherwise than by Words. Than which Egregious Act, whereas nothing
 can be more worthy, yet did you add a Saying thereto more admirable than the
 Thing it self. For when all admired your Patience and Facility, *therein you alone*
blamed the slowness of it. Which was as much as to say, Therefore you grieved,
 that you had not prevented the Convicted Crime with Pardon, and made the Sen-
 tence of Absolution more early than that which passed for the Parties Appre-
 hension.

43. And yet what could be more Swift, than that you were pleased to term Slow-
 ness? For you did not diminish your Anger by Degrees, nor by little and little
 the Fears of those that were accused; neither after Judgment did you doubt, and
 were anxious what to do: but the sorrowful Sentence of Condemnation was pre-
 vented by another given by God, which came so suddenly, and without all delay,
 that many heard of it before the other. For my part, I only heard that Voice,
 which in its Swiftness would have exceeded the bearing of Lamps, which is Celebra-
 ted in Honour of *Vulcan*, that which was used (by the *Persians*) in the long and
 vast Journies performed by their Couriers or Posts; being like those Beacons which
 are set on fire to give notice from high Scituation; so that one happy Noise thereof
 restrained those drawn and Elevated Swords which were about to give the Stroke.
 May we call that therefore a Slow Clemency which was not diverted by the Swords
 which now hung over the Necks of the Guilty Persons? As for *Jupiter* in *Homer*,
 if *Homer* may be believed, although he was his Son, yet could he not undo and re-
 call that Fate which hung over the Head of *Sarpedon*, and when he began to think
 of it, was diverted from his Purpose by the Entreaties of *Juno*. But this Our
 Prince hath dissolved a Necessity of inexorable Judgment, no less than that, with-
 out any regret; his Wife also freely consenting to it, being his perpetual Associate
 and Partaker in Councils: Moreover, their only and most dear Son following the
 Authority of them both, whom they Instruct and Educate to the same Courses and
 Manners, herein imitating both Father and Mother; for that he may be the liker to
 him, it much concerns him to be indued with the same Piety and Clemency. And
 in such manner were those Persons delivered. But as for them whose Faults were
 formerly mentioned, and were to be ascribed more to the Nature of their Ears
 than their Will and Pleasure, was there longer Consultation used, and more delay
 for their Security? Were not they presently delivered of their Fears; and as if
 they had never been suspected for any Crime, did they not presently and suddenly
 keep Holy-days? and instantly change from that abject and idle Habit, wherein
 they had appeared, to one more Comely and Elegant?

44. This Alteration I much more admire than that of *Ulysses*, mentioned in *Ho-*
mer; whereby, from a wrinkled and ragged Old Man, *Minerva* changed him into
 a Splendid Condition by the help of Clothes, and made him strong, and in the
 Flower of his Age, at such time as he was to be known by his Son. This was only
 a Change in shew, and as to the Superficies of his Body. You have returned their
 Souls into their Bodies: Neither can I call your Rod or Scepter less Beautiful or Gol-
 den than that of *Mercury* is termed by *Homer*: For it recalls not from sleep, but
 from Death: This is a Fortification stronger than all Iron, this will preserve your
 Empire much more than those Fires, the cutting open of Veins, and Axes, which
 when the most cruel *Roman* Tyrants forced upon their Subjects, they did not
 thereby repress, but increase their hatred against them. So did not your Ancestors
 and Progenitors, who were of Opinion, that Subjects might better be kept in or-
 der by Shame, and good Will, than by Fear; good Will being a much more strong
 and invincible a Defence than Fear can be; for that we know, by Fear it could ne-
 ver be vanquished, whereas it hath often Conquered all other Letts and Obstacles.
 As for Example, such Emperors as have been Famous for Meekness, except they
 were very negligent and careless of their Affairs, if any Conspiracy was hatched
 against

3.5. against them, without much difficulty they suppressed it : On the Contrary, such " A. D.
as were Cruel and Bloody, who always put to death those they discovered, never " 395.
wanted such as attempted their Lives. How ridiculous was he who would teach " *Torajybius*
Tyrants how to be secure, by striking down with his Rod the most Tall and Emi- " *Mileti Tyrant*
nent of the Stalks of Corn? for, never could he strike down so many, but more and " *nus a Perian-*
greater would still remain? In this respect the Fear of Tyrants being most unhappy, " *dro Corinthi*
that when they remove all they suspect out of the way, yet they can never arrive to " *Tyranno Con-*
that Condition as to suspect none at all. *jultus.*

45. I cannot, O Emperor, but remember that Advice which you gave to your " Judges when they went to Sit. One there was that said, That the Safety of the " Princes was in the first place to be regarded : Nay rather, said you, *their Fame and* " *Reputation.* For length of Life is not that a Prince ought to seek after, but a certain " Excellency in Virtue. Otherwise *Dionysius* and *Tiberius* had grown old in their Do- " mination, whereas their Old Age was nothing else but a more lengthened Infamy. He " who is of that Opinion, and esteems his Fame more than his Safety, he judges them " more his Enemies who hinder him from Glory and Renown, than those that lay Snares " for his Body and Life. Therefore I shall not urge to you any Saying of *Plato*, no not " of *Aristotle* ; but it will be sufficient if you understand your own Saying, and confi- " der in every Action, whether there be more Honesty or Advantage in it ; whether " you be acted with Reason that's sincere, and void of disturbance, or your Mind be " rather darkned by some affection or perturbation : For, *Disturbance of Mind is the* " *most dangerous of all, that perverts Reason in those who have the greatest Power.* There- " fore did the *Persians* fitly call *Cyrus* a Father, *Cambyſes* a Lord, and *Darius* an " Huchster : For its Justice that makes a Father of a Common-wealth ; Anger and " Fierceness a Lord, and Covetousness an Huchster. However, the Appellation of Fa- " ther is only Divine, (for Poets call *Jupiter* the Father of Men) whereas of the other " two the one is appropriate to Wild Beasts, and the other to Slaves. But as in the " Swarms of Bees there is one King, who riseth of himself, and by none other is instru- " cted, about whom all the whole Swarm flutters, and makes a noise with Joy, and In- " circles him : So happens it now and then amongst Men ; but he longest continues his " Rule, when both these things meet and unite in him, *viz.* Beauty of Mind, and Com- "eliness of Shape and Body. And he doubtless is a great Prince indeed, whose Beauty is " not imperfect or lame, but altogether intire and absolute. Wherefore, as *Alexander* " declareth, that *Achilles* was happy, because he had *Homer* to publish and blazen out " his Exploits : So did I think my self fortunate, in that by my Oration I have had op- " portunity to set forth your deserved Praise. Neither let any Man imagine, that this " proceeds rather out of Flattery than from the force and evidence of Truth : for of " all those Emperors which hitherto we have either known or heard of, besides two " most famous of all the rest, there is none other, truly, which would have animad- " verted upon so great a Crime and Offence in the same way, and by the same mea- " sure, as you have done.

46. Thus much uttered *Themistius* in his first Oration concerning the *Good Nature* " or *Humanity of Theodosius* ; upon what Occasion we cannot certainly tell. Some have " imagined it a Congratulatory Speech for his Clemency shewed to the *Antiochians* ; but " that it could not be, as appears from some Passages, and that in particular, where he " speaks concerning two sorts of faults, whereof the one was the Crime of Treason it " self, and the other was the Hearing of it, or what we call Misprision of Treason, which " how could it agree with the Popular Tumult of the Citizens of *Antioch* ? It remains " therefore, that with *Petavius* we conclude it to have been some Conspiracy of certain " Senators against his Person, which he thus readily and freely forgave. But as he did not " only do this Act of Clemency, but continued still to shew himself what the Orator " makes him to be ; so neither could the Orator forbear having the same occasions, but still " commend him, for the easiness and agreeableness of his Manners ; this Emperors " merit on the one side provoking him, and on the other his own continual Exercise in the " way of speaking by an Habitual Inclination, prompting him, though now in his Old Age, " to keep up that Faculty which in his youth he had attained. Is it possible (saith he) " that one who designs to be Excellent in Horsemanship, and affects the Sirname which " by *Homer* is given to *Nestor*, (whome he calls an Horseman, and a Driver of Horses) that " he should altogether neglect that very Art, and not exercise himself in all these Cour- " ses and Methods which conduce to the perfection of it ? Such as are to mount an " Horse readily, to sit him, with as much ease to the Horse as possible ; easily to quit him " upon occasion, to curb him in when there's need for it, and to give him the Reins as " the Case shall require, and to cause him to take such way as is most convenient. In like "

Themistius his
and Orati-
on praise of
Theodosius.

*περὶ τῆς δια-
κοιὰς τῆς Βα-
σιλείας.*

Sect. 5.

manner *Menclaus* blames *Antiochus* in a certain place in *Homer*, for having in a Cha-
riot Race, which *Achilles* ordained in honour of *Patroclus*, out of desire of winning,
never considered in what danger he drove, and not restraining his Horses, but put-
ting them on in a strait and precipitous Place. As in Horsemanship, the same thing
is to be observed in the Dexterity of Shooting. Will any who has a Design to be
excellent in that way spend his Time and Pains in any thing so much as daily to
learn how to hit the Mark? Therefore is his Hand even worn with drawing the Bow,
and by his Industry he arrives, at length, at such Skill, as that of *Meriones* of *Crete*
is reported to be, who if he missed the Pidgeon, yet would be sure to hit the String.

47. If any desire to be Skillful in Fencing, and by it to obtain great Praise and
Renown, if he despise the knowledge how to manage his Weapon, and is ignorant
how to turn his lean Body from one side to another; shall we say that this man
hopes for Glory and Commendation from that Art which he never Exercised, or
give him Praise or Honour for it as in a Dream? That I may not instance to you in
a Pilot, or a Shepherd, or a Physitian, and prove to you, that all these, if they
desire to be Excellent in their several ways, must also be desirous to be conversant
in those Courses by which the Excellency of their Arts or Professions are attain-
able; I come to that very Point on which I purpose to insist. If therefore there
be any one who is seated upon an Elevated Throne, adorned with a Purple Robe,
and having Dominion in a manner over all Earth and Sea, which he both rules
and preserves, and upon occasion pardons; if he have a desire after Praise, which
is sincere and without flattery, doth not his Mind seem to acquiesce, and be confi-
dent in what is ordained from above? And in that he now passeth the sixth Year
of his Reign without the least blot or spot upon him, is he not more proof against
Calumny and Contempt, than against the Sword it self? Remember that first
Meeting you had, and the *Beotian* Verses or Congratulation, upon occasion of
which you met together. Here he spends some words in reflecting upon some
Poet or other, who being either a *Beotian* by his Country, or making his Commen-
dation in the manner of *Pindaric* Odes, with very handsome Expressions well put
together, yet commended the Emperor for these things which are esteemed by the
Vulgar, as great Forces, good Fortune, and Authority. Whereas it is agreeable
to the Art of Wisdom alone to inquire who he is that is truly a King, and what are
the Signs and Tokens of his Majesty: not such as are the Golden Eagle, and the
Dragons (in his Banners) subtly Woven: or that with an Arrow or Dart he
can hit a Mark; for these I suppose *Nero* the Ministrel, and furious *Domitian*, might
urge in their own behalf; but he is the Man whose Mind is lifted upward, and intent
upon God the Moderator and Prince of all things; and by him being Governed
in all his Affairs, from him receives whatsoever is profitable for the Regiment of
an Earthly and Inferior Kingdom. And from him it is, that you (most Excellent
Emperor) receiving what you have, stood in no need, of *Archers*, or the *Scutati*,
of *Armenians* or *Iberians*, or *Horse* bearing heavy Armour, for Extinguishing
that *Scythian* Flame. For by your Council and Prudence alone that Flame fell
and went out of it self. You have not your Eyes fixed on the Earth, nei-
ther are you perplexed how to procure Gold or Silver for your Supplies: but
how you may heap up vast Treasure of good and famous Deeds, of which none
can rob or plunder you.

48. After some other words he further tells him, that there was another quite
contrary Cause of his Delay in speaking than that which he suspected; not a De-
fect; but a luxuriant Plenty of Subjects upon which he could insist. For being
wont, saith he, to do many excellent things, not only daily but hourly adding one
thing to another, you thence do cause that my Speeches come from me very diffi-
cultly. You do not undo what you had formerly done, but still weaving more
work, and multiplying it upon me; when I purpose to commend any famous Ac-
tion you do, or Saying which you utter, with a sincere and incorrupt Encomium,
presently many new and fresh present themselves, that put others out of my
Head which formerly I had pitch'd on; and when, omitting the former, I intend to
speak of what had happened later, still others of fresher date occur, which ex-
trude the former Commendation. The same things happen to me as to those Li-
quorish People that are invited to a Feast: I taste and take an Essay of every thing;
so that I fill my Belly with no one Dish that is set before me: Or rather I am in
the Condition of Hounds, which if they happen upon one Wild Beast alone, do
constantly stick to it and pursue it, till it be taken; but if they rouse others from
several Parts, choose one of these, and leave the other to its Escape. And
truly

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truly these Ancient Poets or Singers are not at all to be reprehended, if they Ex-
tolled *Hercules* the Son of *Jupiter* more easily in the beginning than in the sequel
and progress of his Undertakings. Your Acts are of the same Nature; for you
increase perpetually your Achievements, so that our Muse wants sufficient Confi-
dence, to keep pace therewith; her Orations being not light winged, and easily
moved, but slow and leisurely, looking about upon every thing that's done, and
not merely upon it as done, but with what Will, at what Time, with Whom, and
for what Purpose. For oftentimes an Action of it self is not so considerable, but
the Will of performing it is Laudable and Excellent. Of this Nature was your
first Expedition to the *Rhine*. Every one indeed did not apprehend it; but
your Mind in attempting was great and truly Royal; to revenge a Prince taken
away before his time, and to preserve the Remainders of his Family. Whosoever
thinks that of low Concernment, let him consider, how by that undertaking a-
lone, and the terror thereof, the Insolence of the *West* was repressed. Even as
Achilles in old time, when he abstained from War, yet by leaping out of his
Tent Exclaiming and making a Noise, extinguished the Fire that had taken in the
Navy of the *Greeks*, and deterred the *Trojans* from further proceeding.

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ic self.

stening
urthen
ributes.

49. These things, when I consider seperately and apart, I find it necessary to use
my Notes, by degrees and warily. As when I think upon *your lessening the bur-
then of Tributes*, in that the Timing of it seems more worthy of Admiration
than the greatness of the Thing it self. For, when, as we verily apprehended,
there might be reason to augment these Impositions, there being daily need of
more supply, presently the Charge abated; and therefore the coming of it so un-
expectedly, and beyond our hope, was greater than the Kindness it self. Formerly
Corne was not, without threats, and compulsion, brought hither; but now it
flies as upon Wings, nay more swiftly, and without any calling for it: Now the
Sea it self obeys the Emperor, and even the Winter Navigation with Ships of
Burthen is more Commodious and Pacate than that of Summer. The Granaries
therefore do not now abound with Filth and Cobwebs, but are full, and to spare;
and that Ancient Trust and Security, which formerly had left us, is returned again.
So pass we the Winter, hoping well concerning the Fertility of the Spring. The
Prince thinks it not below him to make inspection into these Treasuries, but per-
mitting those wherein Gold is laid up to be kept by others, doth not stick at all,
nor think it below his Majesty, to take an Account himself, and view that which is
deposited in the Granaries. *Cræsus* the King of *Lydia* indeed, thought it more be-
coming his Royal Magnificence to view his Vaults filled with Gold, than furnished
with Corn. And therefore he bragged to *Solon* the *Athenian*, not of his heaps of
Wheat, but of his Filings of Gold, which were not the Gifts of the Earth, but
the unfruitful and barren Wealth of an arrogant River, with which whosoever is
compassed about, must dye of Hunger, as he did who perished in the injoyment
of his Wish. Therefore would not *Solon* own *Cræsus* for the most happy of all
Mortals: but mentioned the *Athenian*, and the Young Men of *Argos*, and any
thing sooner than he would do him. But doubtless most Blessed and
Happy would he have pronounced that Emperor, *with whose allowance such an
Army is maintained and kept on foot, as never was before in the Roman Empire,*
especially upon the River Tigris. After this he speaks concerning his Allowances,
and beautifying the City of *Constantinople*, what we have already written concerning
that Matter, and then proceeds.

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kept up
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pire.

50. And truly, my good Hearers, if this Body of mine could be accomodated
to my Will, I should desire, that my Life might be continued to me, not thereby
to injoy any other Pleasures, (for they are all already, and with reason, extrin-
guished in me) but that I might see a third City, which our Emperor will accom-
plish ere it be long. Neither have I this desire in me without hope to see it ac-
complished. For in him there remains so present a Remedy for driving away mine
Infirmities, that when lately he willed me to apply my self again unto Musick,
there was more Virtue in his words, than in all the Medicines of *Hippocrates*.
Now I proceed with more vigour than formerly, and when I speak can better be
heard; neither am I so stopped up, but I can swallow both Meat and Drink: nay,
together with this Sedulity and contention of Mind, my Body in some measure re-
flourisheth, is excited, and seems to shake off Old Age. Wherefore the Case be-
ing so with me, no wonder it is that I sing not now my last Song, (as Swans are
wont before their Death, in Honour of that God whose Servants and Prophets
they are) For the Prince of the Muses will still afford me some better and sweeter

Sect. 5. occasion for Melody. Indeed the Medicaments of *Colchia* deceived the Daugh-^{A.D.}
 ters of *Pelias*, pretending to make their Old Father Young again. But this³⁹
 our Prince reduceth me to true vigour and strength, not so much by his new
 Building, as for that he *himself grows and increaseth daily in a desire and aptness to*
hear. Therefore doth he excite, provoke and stimulate my Mind, neither suffers
 it by heedlessness to fall into Slumber or Oiscitancy; but though weary and weak-
 ness, as some Excellent Soldier, he recalls it, and puts it to Discipline, affording
 Excellent Helps thereunto, and whatsoever Art it self doth require. In that
 therefore I put my Hands to the *Præfectship* of the City, I neither was led by Ambi-
 tion nor desire of Honour; but because I coveted to make it appear, that our
 Emperor had the same Opinion with Divine *Plato* concerning Man's Felicity. But
 that neither the Emperors Opinion, nor the Saying of *Plato* is to be convicted of
 Error, is rather to be shewn by some other than by me.

Themistius
 once Præfect
 of the City.

Theodosius
 committed
 the charge of
 his Son *Arca-*
dus unto him.

51. But I shall not boast much of that Table or Picture, but of another and
 more perfect, which contains those Pourtraictures in its Power, which the Wor-
 kers in Ivory or Gold have not framed, but is the Work of the Emperor himself,
 or a Sacred Off-spring presently consummate from a Sacred Birth; alone desired by
 the Wishes of all Men, and from his Swadling Clothes called *Augustus*, whose
 Body indeed doth grow, but he cannot encrease in Honour: whom he committed
 into my Hands, when he made preparation for his Expedition into the *West*, and
 that in the sight of the Senate, and all the People; with this Charge, that I should
 take care of him, and diligently make much of him, I, who could neither move a
 Target, nor toss a Pike, neither knew how to make use of Bow or Sling, only wore
 the Pallium, and was even bended together by Weakness and Old Age. But as it ap-
 pears, he did not think that the same Discipline was proper to a Prince, and a Pri-
 vate Man: that he who was to command at Land and Sea, should be instructed the
 same way as an Officer in the Army. Come hither therefore my most Dear Son,
 and sit on my Knee, that I may instruct thee; not as *Phænix* did *Achilles*, stop-
 ping him with Meat and Drink, but giving thee that Nourishment which Philoso-
 phers alone prepare for Young Princes that are under Age, I mean those fruitful
 Disciplines, lofty, and full of advantage, the Grace and Ornaments of the An-
 cient Emperors. Such as the great *Cyrus* of old was Educated in; the *Roman*
Numa, that famous *Marcus*, and excellent *Titus*, whose Great and Glorious Say-
 ing it was: *This Day I have not Reigned; for I have not done any Man good.*
 Receive also the Instruction of famous *Plato*, and Divine *Aristotle*, by whom
 Great *Alexander* was instructed; whom from an obscure Kingdom they made
 Lord of the World. If thou beest informed and educated by such Masters;
 thou who challegest the Name of that God which præsideth over Sciences; then
 will speedily be accomplished the Wish of thy Parents, that *Thou mayst prove more*
Excellent than thy Father; or what is more moderate and facile, Let him *follow his*
Fathers Steps. Then will thy Mother rejoyce to see thee not only returning with
 Spoils from a Battle, but from speaking to the People, and administering Justice,
 with the Assessors and Officers of Justice incircled about; which Virtue chiefly and
 best of all fits a Palace.

Arcadius
curii ex A-
dia Orin

52. Thus much *Themistius*, in his Second Oration in the Commendation of *Theo-*
dosius, which as being more tedious than our present Design will well suffer, I
 should not have thus transcribed, but that producing no Testimony of any Christian
 in behalf of this Emperor, not any of his own Religion, which must be in another
 Place, it seems more just that the Reader should know what all the Pagans say, and
 withall perceive their ways of Oratory in this Age. Here he hath also several Hi-
 storical Hints concerning the enlarging of *Constantinople*, and other Matters, a-
 mongst which that of *Theodosius* his recommending his Son to the care of the Ora-
 tor, at such time as he prepared for his Expedition against *Maximus*. This Ho-
 nour put upon him, with other Favours, may make some imagine that he was bribed
 to speak as he did, at least a sense of Gratitude and good Nature might give some
 farther Accent to his Oratorical Straine, in the presence especially of the Emperor.
 But he deduces all his Arguments from Matters of Fact; and from particular Acti-
 ons, which are only convincing; rightly argues to the Humour and Nature of the
 Person, in such an Assembly where the contrary being notoriously known, could
 not but have checked his how ever ready Tongue. But we have still more Testi-
 monies from those of the same Superstitious way, as to Religion, and such as were
 so far from being given in his presence, that it could not be presumed, that they
 should ever come to his Knowledge. One of those is afforded him by *Symmachus*, as
 zealous

7.4. zealous for the worship of false Gods as any of his time, except it was *Flavianus*, whom, as in the several Epistles he wrote to him, he calls Brother, so he seems his Elder Brother in this respect; for his hatred to *Theodosius* drew him so far, as to engage, nay to stir up and encourage *Eugenius* the late Usurper against him, and in that Cause he lost his life at the *Alpes*, if some were to be believed. Yet to this *Flavianus*, upon the occasion of the Emperors renouncing every thing given him by Codicils formerly mentioned by us, doth the said *Symmachus* write after this manner. Whereas I ran through the commendations both as to War and Peace, which belong to our Lord *Theodosius*, in an honourable style, I confess that I rather touched at the Heads thereof, than spake enough to the particulars. I also added his Laws to the good things he hath done in reference to Peace, which as I know, they take away admiration from antient ones, so I was of opinion that they have not left equal glory to those which are to come. But this new sanction of *Fide commissæ* and the Profits of *Codicils* eternally rejected by this best of Princes, by so much lustre exceeds the light of such as were before, as much as it is more august for a Governor, to put a restraint upon himself than others. And I wish that private Avarice may understand the meaning of the Lawmaker, and may frame manners out of his Laws. For I am not ignorant what he would have others do of their own accord, who first himself hath abhorred these suspected Advantages. Then after some reasons added for his wish and his approbation of what *Theodosius* had done, he concludes. If the Amendment of the greater part of Persons be not attained; in vain hath the Emperor bound himself by these severe sanctions, *Who all-ways hath been good, and of unblameable manners.*

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Lib. 2. Ep. 13.

Qui semper bonus & integer moribus fuit.

53. This cannot be said to have been spoken in his Presence, or to gratifie his Ears, but wrested from the Writer by the great evidence and Force of Truth. So was that which we shall subjoin, and wherewith conclude these Testimonies, which is the Account *Aurelius Victor* gives us of this Emperor, and not written till after his death. *Theodosius*, saith he, was born of *Honorius*, (his Fathers name he mistakes) and *Thermantia*; by Nation a *Spaniard*, and deriving his Original from the Emperor *Trajan*; was created *Augustus*, by *Gratian* at *Sirmium*, and Reigned seaventeen years. It's reported that his Parents, being admonished in a Dream, gave him a consecrated Name; so as in Latine he might be called *A Deo Datus*. From this Oracle a Rumour was also spread in *Asia*, that one should succeed *Valens*, whose Name in Greek began with Θ and Ξ and Θ and Δ , with which *Theodorus* being deceived, and usurping, suffered the punishment of his wicked Ambition. As for *Theodosius*, he was an exceeding great Propagator and Defender of the Commonwealth. For in several Battles he defeated the *Huns* and *Goths*, which had harrassed the Empire under *Valens*. With the *Persians* he made peace at their desire. He vanquished and slew *Maximus* the Tyrant, who had murdered *Gratian*, and seized on *Gall*, at *Aquileia*; and put to death his Son *Victor*, whom being yet within Age, he had saluted with the Title of *Augustus*. He also overcame *Eugenius*, and *Arbogastes*, ten thousand of their men being killed. For, this *Eugenius*, trusting to the Interest of *Arbogastes*, after he had murdered *Valentinian* at *Vienne*, made himself Emperor; but presently lost both Life and Empire. Now *Theodosius* was in Disposition, and also in Body like to *Trajan*, as far as we can judge by the Writings of the Antients, and by Pictures. His Gate was upright, his Limbs alike, such sort of Hair, and such a kind of Mouth and Face, saving that *Trajan* by plucking out the Hairs, had his Beard thin on his Cheeks, neither had he so big Eyes: and I am not certain whether he had so much Gracefulness, so much vigor in his looks, or in his Gate was so Magestic. But his mind was altogether the same, so that nothing can be said, which may not seem out of Books to be transferred upon the other. A Disposition full of Clemency, Mercy, and freeness as to Conversation, thinking himself to differ in Habit only from others; Honourable in his Dealings with all men; but lavish towards good men: affecting those of simple or innocent Natures equally, as admiring the Learned if they were harmless; with a great Mind bestowing great Things; loving those of his Subjects that were but privately known unto him, and conferring on them Honours, Money and other Emoluments; especially such as in difficult cases he found to be true unto him.

Aurelius

55. But, For those vices wherewith *Trajan* is aspersed, viz. violence (or being given to Wine) and a coveting of Triumphs, he so detested them, that he made no Wars, but found them made to his hands, and prohibited, by a Law, services conducing to wantonness, and that Minstrels should be admitted to Feasts: attributing so much to Modesty and Continence, that he forbade the Marriage of Cousin Germans, as of Sisters. For Learning, if we look at such as arrive at perfection therein, he was but moderately seen; but very sagacious, and using much diligence to understand the Acts of

Sect. 5.

of his Ancestors, of whom he did not cease to execrate such as he had read to have been Proud, Cruel and Enemies to Liberty; as *Cinna*, *Marinus* and *Sulla*, with all such as loved to domineer over others; but especially the Perfidious and Ingrateful. Indeed he would be angry at unhandson things, but would quickly be turned and appeased, whereby it came to pass, by little delaying, that sometimes more severe Commands were mollified. And he had that by the gift of Nature, which *Augustus* learnt from his Doctor of Philosophy, who when he perceived him to be easily moved, advised him, when he began to be angry, that he might not determine any harsh thing, first to repeat the four and twenty Letters of the Greek Alphabet: that that concitation which was but momentary, might fall of its self; the thoughts being diverted another way. But without doubt, which is a point of rare virtue, *After that his Royal Power was increased with his years, he was better than before, and much more after his Victory obtained in the Civil War.* For then more solicitously than ever did he take care of Provisions for his People; and a great mass of Gold and Silver piled, and spent by the Tyrant, he restored to many out of his own Treasury; whereas even good-natured Princes were scarcely wont to yield back bare grounds and Lands dispoiled. Now I come to those things of lesser concernment, and as it's said *within the Court*, which because they are more secret, do more attract the Eyes and the Ears of men, by Nature curious. His Uncle he respected as a Father; the Children of his deceased Brother and Sister, he held in the same place as his own: those of his Kindred and Affinity he embraced with the Affection of a Parent: *He would entertain Elegantly and Chearfully, but not Profusely or with much Cost*: would fit his Discourse to the Company, their Wayes and Dignities, mixing Gravity with his Mirth: he was an Indulgent Father, and a Kind Husband. His exercise was neither effeminate, nor to tire himself: when he had leisure, he chose rather to recreate himself with walking; and by continency of eating, (or a moderate Diet) he preserved his health. Thus he died in peace at *Milan*, in the fiftieth year of his Age; leaving both the Empires to both (*viz. Arcadius and Honorius*) in a quiet condition. His Body the same year was conveyed to *Constantinople*, and there Buried.

56. It's time now to make an end of this Subject, and so Reader thou hast cause to think; but if thy patience be too much tired and presumed upon, let thine Indignation fall upon his Memory that gave the Occasion. I suppose thou wilt easily pass thy sentence, and there's little need of summing up the Evidence. The charge or Accusation is made by him, whom thou must needs, by all that thou readest, take for a bitter Adversary, and Malicious; neither are any of his Friends produced to say any thing in his behalf, except thou wilt look upon those as interested Persons, who were of the same inclinations with *Zosimus* as to Religion, and some of them as zealous as himself in that way, and such as could make as little Advantage by that they testified, as he could receive damage by his undertaking. Besides, most were Eye-witnesses of his Actions, and had them not by report, as he must necessarily have had, not writing till the later end of the reign of *Theodosius* his Grandson. But the great objections against him are, the Effeminateness and Luxury of his Life, with the profuseness thence arising, and his oppression of the People, by raising of money to supply these disorderly occasions; and by reason of his making so many principal Officers of the Army. Now the Evidence that comes in for his Defence; first makes him an extraordinary good man in general, and, it also further speaks directly to the things whereof he is accused. A man of singular goodness of Nature, full of Clemency, Pity, and of wonderful Freedom and Affability thou findest him, nay further, *Symmachus* tells *Flavius*, as it fell naturally in his way, and not by any Study or Design, that he was always good and unblameable or sound in his manners. And as for the continuance and extent of this goodness *Victor* witnesseth that, he was better after that his Power increased with his years; and yet much more still after his victory obtained in the Civil War. Add to these what *Themistius* affirms of his keeping such an Army on foot as never had been in the *Roman Empire*, especially upon the River *Tigris*. And moreover, recall to mind what he discourseth concerning his Buildings at *Constantinople*, and bringing that City to such extraordinary Perfection and Decorum.

57. Any indifferent Person hearing this so sublime a Character, would easily acquit him of so ugly a charge, but this we shall not do without instancing in the particulars themselves. And first for his Luxury and Sloth, his pleasing his Appetite, and his Belly, and gratifying his Ease, and nourishing many Ministers and Instruments of his Effeminate life; thou findest the contrary affirmed both by *Pacatus* and *Victor*. The former speaks of the retrenching of the expences of the Court, not only by rejecting what was superfluous, but scarcely admitting of a necessary allowance; and as to his own Person, contenting

Theodosius a
most excellent
man.

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11p.5. tenting himself with a mean and souldierly fare, while his Palace abounded with ex-
 amples of Pains-taking, Patience and Frugality. •But grant it an Oratorical flourish
 that his meals were more spare than those of ordinary Tables, and were only supplied
 with Provisions relating to the place and time; yet when he made his entertainments
 (for Princes, sometimes this way must shew their Magnificence) he did it indeed ele-
 gantly and chearfully, but *Aurelius* affirms without any profuseness or much cost; for
 (he gives the reason) he therein excelled *Trajan* that he was not given to Wine, but
 by a moderate Diet he kept himself in health. If these two may be believed, he was
 both very temperate himself, and by his example drew others off from their luxurious
 courses, to Abstemiousness and Frugality. For the sluggishness wherewith his En-
 emies charges him, it can be in no other respect than that for which *Victor* extolls him
 above his Ancestor *Trajan*, that he did not himself make or give occasion to Wars,
 but was provoked or drawn into them by the Aggressors. This indeed like a true
 Christian Prince he was guilty of, never seeking occasions to shed mans blood: He was
 no Pirate (as that Seaman told *Alexander*) robbing with whole Armies. But did he
 ever refuse any enterprize, that might be warranted by that goodness of Nature and
 love to Mankind, which ought to abound in Princes especially, who cannot in any other
 respect be so truly stiled Gods upon Earth, or thought to resemble him whose vicege-
 rents they are, in whose Hands (as the Pagan Orator applauds) their Hearts and Lives
 do stand? He was ready upon any occasion to vanquish the *Goth* and *Hunn*, to restrain
 the *Saracen* and force him to make peace. Remember what his Detractor writes con-
 cerning his disguising himself, and the entertainment he had in an Inn, where he disco-
 vered the designs of the Invaders. He suppressed two considerable and potent Usur-
 pers at Home, and brought to reason such Barbarians as made any disturbances. And
 abroad, besides the terror which his Armies and Name struck into other Nations, he
 awed the bold and daring *Persian*, so as he durst not stir or move; him whom neither
Julian could conquer, nor others of his Predecessors, keep in order; and though not a
 Confederate, made him in a manner, as the Orator saith, by his Presents confess him-
 self a Tributary.

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58. For his making so many *Magistri Militum*, or great Officers in his Army, he
 had occasion enough to do it, if what *Themistius* saith be true, that he maintained a
 greater Army than ever had been in the Empire. The Northern parts required his
 great care; but the East, where he had reason to apprehend dangers from the great and
 powerful *Persian* Kingdom, now, as it appears, was more industriously and with more
 Forces upon *Tigris* than ever to be secured. It was not he that let the Barbarians in-
 to the Bowels of the Empire, and first received them to Charges and Commands, but
 now it was done, when they were civilized, had learnt the *Roman* Discipline and way
 of Fighting, and not only they, but their Countrymen who lived at Home, by that
 continual entercourse, which for several Ages, either in War or Peace they had had with
 the *Romans*; there was necessity, at least from Rules of Policy, to tame, and by good
 usage to transform them, if possible, into a *Roman* interest and humour. When
 Strangers imbody with a Nation, when they marry in that Country, and have
 Children to succeed them as Members and Citizens thereof, it's seldom but they acqui-
 esce, grow domestick, and even forget the concerns of the Regions they left; which
 why it took not place in these Barbarians who afterward overran the *Roman* Empire,
 we may in convenient time Discourse. In a Neighbouring Kingdom there are now more
 at present which bear the Title of *Marshall* thereof, than under him, that of *Magister*
Militum; though that Kingdom can scarcely be esteemed as a tenth part of that Empire
 which he the rest Commanded. To oblige the Princes of such Nations as had been
 received into the Empire he gave them Commands, yet so as to be commanded them-
 selves if they grew turbulent, and by preferring them and others, if you believe what
 you read in his behalf, he did not so mightily heighten the Charge, and thereby was
 driven to harass and oppress his People by unwonted Taxes and Impositions. *The-*
mistius speaks of his releasing Tribute, and that with so much respect to time and oc-
 casion, that the circumstance was more acceptable than the thing it self. *Symmachus*
 extolls him for his selfdenial in eternally renouncing what Princes had wont to get by
Fidei Commissa and *Codicils*, and as he admires his Laws in general, as full of Good-
 ness and Clemency, I suppose, Reader, by what thou hast found in the History of his
 Government, thou wilt scarcely be moved to be of the contrary Opinion.

59. That therefore which *Zosimus* termes profuseness, to understanding Persons,
 seems to have been a Crime (with him) of the same Nature with that he charges up-
 on *Constantine*, and no other but his Munificence towards Bishops, Churches and
 other Persons and things relating to Christian Religion. That several miscarriages
 hapned

Sect. 5.

happened in his Reign there's little doubt : amongst a multitude of Officers imployed by him in so many Provinces, that many should not be swayed by Pride, Passion and Self-interest is not a thing imaginable, and how he could prevent or redress every individual Inconvenience, being necessarily to use other mens Eyes and Hands, none can devise. It was his misfortune to be deceived in men toward his later end, though as to those that served him at his first entrance *Pacatus* magnifies both his Fortune and his Choice. And the great mischief was that it hapned towards his later end, for he might, had he lived, have discovered and removed those Persons, who being intrusted by him with the management of the Affairs of his Sons, gave beginning to those miseries which afterward fell upon the Empire. And that we may be impartial, he had one Infirmity in his Temper and Humour hinted by *Victor*, and that, was some Hastiness and Anger, to which the best Natures are often subject, which sometimes when ill men could manage it, might break forth to some actions of Severity. But he easily cooled of himself, if by ill Instruments his Heat was not ventilated, and most readily closed with what tended to appease him : as we see in the business of the *Antiochians*. Indeed one example there is of his being overcome with his passionate humour, which produced an Effect of very ill consequence. At *Thessalonica* the Citizens fell into a tumult about a Chariot Driver, whom being committed to ward for attempting a Womans Chastity, they would force out of Prison, and their Rage flew so high as to kill *Boterichus* the *Magister Militum in Illyricum*. The report hereof cast the Emperor into so violent a Passion that, without any Process made against the Offenders, he commanded that some of them should be seized and put to death, which command being executed in an hurry, and when the Town was full of Strangers, seven thousand are said to have perished. This we did not insert into the History of his Reign, because though the thing it self was too Considerable, yet the consequence of it was very Admirable, and relates to Ecclesiastical Matters, wherein, God willing, shall be discovered that Admirable Humility, Meekness, Patience and Self-denial of this Prince, when for this his Offence he was secluded the Church by *Ambrose* the Bishop of *Milan*, and not received to Communion again till he had given publick satisfaction, and made a Law concerning the deferring the Execution of such Sentences for thirty days. This was the only flaw in his life that can be known, of which yet our Church Historians only take notice. A wonder it is it should escape *Zosimus*, who would have doubtless gone far out of the way to have hooked it in ; so that the matter seems not of such consequence as some Writers make it. However, take this Person according to his general Carriage and Demeanour (which will much more appear in our Ecclesiastical Part) he was so extraordinary for Goodness of Nature and other Qualifications, that he deserved also the Syrnyme of the *Great*, which Posterity thought fit to confer on him.

But he was
Passionate.

A.D.
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C H A P.

T H E ROMAN EMPIRE.

C H A P. III.

Containing the Decay and Ruin of the Empire in the
West.

S E C T. I.

The first step to the Ruin of the Empire.

From the Death of Theodosius the Great, to the first Invasion of Italy by the Barbarous Nations.

The space of seven years and about seven Months.

I. **T**He worth of a Prince is most discerned in the want of him, and so it happened to the Empire after the death of *Theodosius*. It was the great infelicity of it and him, that he left two Sons not capable of themselves to manage publick Affairs; *Arcadius* the Elder being but about seventeen years of age, and *Honorius* not eleven: But betwixt them two he divided the Empire before his death; assigning to *Arcadius* the East, and to *Honorius* the Western Parts, wherein were comprized the Western *Illyricum*, with *Italy*, *Gaul*, *Spain*, *Britain* and *Africk*. Till they should come to maturity he appointed *Rufinus* Chief Governor or Assistant to *Arcadius*; and to *Honorius*, *Stilicho*. These Men having such great Advantages, and puffed up and emboldened therewith; when the Empire, by reason of the *Barbarians* which hovered upon it, was in so ticklish a condition, that it required their care and diligence to secure it, thrust it on, and plunged it, through their Ambition, into greater Inconveniences, and such, as it could never recover it self out of them: for they took advantage at the Youth and Imbecillity of their Masters, and omitted no sort of Villany to advance themselves into their rooms. This mutual heat of Ambition cast them into so violent hatred of each other, that to procure the destruction of his fellow, as well the one as the other, confounded all things Divine and Humane. This gave such advantage to the *Barbarians* received into the Empire, that they, who by fair and prudent management, might have been induced quietly to incorporate with the Romans, were thereby allured to set up for themselves; to become Conquerors instead of Subjects; to cantonize the Provinces, and erect Principalities of their own. How these mischiefs began and proceeded *Zosimus* declares after this manner.

2. After that the Sovereign Power came into the hands of *Arcadius* and *Honorius*, they seemed only in Name to be possessed of it; for in reallity, the whole Power of the East was in *Rufinus*, and that of the West was at the pleasure of *Stilicho*. They now determined all Suits and Controversies with great licentiousness; and he went away with the Cause who could give most Money, or by some Relation to the Judge, or indearment with him, could draw him to his Party. Now Lands and Estates, of which the owners were thought happily siezed, were made over and appropriated to them two: Some by such means bribing them, and thereby evading their Calumnies, with which else they would be over-powered, and others freely parting with them, thereby to purchase Offices and other Advantages, whereby the Cities were oppressed. The Provinces being thus harassed on every

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SECT. I.



Rufinus purpo-
ses to marry
the Emperor
to his Daugh-
ter.

side, all the Wealth flowed into their Coffers ; and in every place Poverty raged, where lately had been Abundance of all things. The Princes themselves were not at all sensible of these things ; but whatsoever *Rufinus* and *Stilicho* ordained was looked upon no otherwise than as unwritten Law. And by this time *Rufinus* having vastly enriched himself, began now to dream of procuring no less than the Empire, and that by giving in Marriage to the Emperor a Daughter he had that was fit for Matrimony, judging it a very fit Advantage for his purposes. This, by some of his Creatures, he procured to be moved to *Arcadius* ; and, as he thought, with all secrecy imaginable : but by some way or other out it came, and began presently to be the discourse of the people : For from the swelling of his Pride and his Arrogance, which daily increased, all conjectured what he aimed at ; and this increased the common Odium against him. But as if he intended to cover and conceal his lesser faults by great Villanies, he attempted another thing in prosecution of his Designs. *Florentius*, who, when that great *Julian* was *Cesar*, exercised the Office of *Præfectus Prætorio* over the Nations inhabiting beyond the *Alps*, had a Son who was called by the name of *Lucian*. This Man courted *Rufinus* as his Patron, and had given him Lands of very great value : Upon which Account *Rufinus* always acknowledged himself obliged to him, and would still commend him before the Emperor *Arcadius* ; who made him thereupon *Comes* of the East. Now the Authority of this Magistrate is such, that he commands all such as govern the Provinces of those parts, and corrects those that do amiss.

His Ingrati-
tude and
Cruelty to-
wards *Lucian*.

3. *Lucian* carried himself so virtuously toward those that were committed to his charge, and acted with that Justice, Temperance and other Qualifications requisite for fitting him for that Employment, that he became famous ; for he was no respecter of Persons, neither concerned himself otherwise than as the Law directed him : In so much that when the Emperor's own Uncle *Eucherius* required something that was not fit to be granted, he rejected his Proposal, and thereby so moved him, that he went and complained of him to the Emperor, loading him with a grievous Calumny. *Arcadius* upon this blamed *Rufinus* for having preferred such a Man to so great a place. Whereat he taking occasion, and, as troubled at the Emperors Reprehension, making his purpose known to none, with a very few in his Company, went to *Antioch* ; and coming in late at night, apprehended *Lucian* ; and without any Accuser, called him to his Tryal. He commanded him to be beaten on the Neck with leaden Balls till he expired, and then caused him to be put into a Litter, and covered, making all people believe that his life not being taken away, he should find some humanity yet at his hands. But the City knowing how the matter went, took it very heavily. Whereupon, to appease the Indignation of the Multitude, he built them a Royal *Porticus*, than which that City hath not any Building more splendid. After this he returned to *Constantinople*, more than ever set upon contracting Affinity with the Emperor : But an Accident happened which put him quite besides his hopes. There were two Sons of *Promotus*, who in the life time of *Theodosius*, were brought up together with his Children ; whereof one of them had a Virgin with him of extraordinary beauty ; by *Philostorgius*, said to be the Daughter of *Baudo*, or *Bauto*, who was Consul with *Arcadius*. This Maid, *Eutropius*, one of the Eunuchs that waited on the Emperor, advised him to marry ; crying up her handfomeness : And when he saw him listen to what he said, he shewed him her picture ; and thereby exciting his desire, perswaded him to take her for his Wife : *Rufinus* being ignorant of all, and thinking of nothing but that his Daughter should shortly be the Imperial Bride, and that he should be made by his Son in Law his Consort in the Throne, when she was once his fellow in his Bed. The Eunuch perceiving the business of the Marriage to be as good as done, commanded the people to dance and wear their Garlands, as was wont to be at the Marriages of Princes. And when he had taken a Royal Robe and other Ornaments out of the Palace, and given them to the Emperor's Servants to carry, he went through the City with the people before him. Every one imagined that these things were for the Daughter of *Rufinus* ; but coming at length to the house of *Promotus*, there he caused them to enter ; and by delivering them to the Virgin that was brought up with his Son, presently declared who it was that must be Empress. *Rufinus* being thus frustrated when he saw another woman married to the Emperor, and that it was too late to recal it ; beat his brains to devise how he might destroy *Eutropius*. So went the Affairs of *Arcadius* in the East.

The Emperor
is perswaded
by *Eutropius*
the Eunuch to
marry another
woman.

Stilicho with
better success,
marries his
Daughter to
Honorius.

4. *Stilicho*, who governed all things in the West, had better success in the like Attempts ; for he married to *Honorius*, his Daughter which he had by *Serena*, the Neice of *Theodosius* by *Honorius* his Brother. Besides now that he was strengthened

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ed by his Emperor's Affinity, he had in a manner all the Towns of the Romans under his Command: For when *Theodosius*, after defeating of *Eugenius*, was dead in *Italy*, he, who then was Captain of the whole Army, kept to himself the stoutest and most valiant of all the Soldiers, and sent those that were of little account into the East. Afterward being angry with *Rufinus* for having equalled his Power in the East to that of his, he purposed to go to *Arcadius*, and to dispose also of his Affairs at his pleasure; alledging that *Theodosius* upon his Death-bed gave him in charge to have an equal care of both his Sons. *Rufinus* perceiving his Intentions, endeavoured with all his might to hinder the Journey of *Stilicho*, and yet to lessen and weaken the Forces of *Arcadius* as much as possible; and bending his Endeavours this way, to bring them about he found out persons more wicked and fit for his turn than he could have desired; and by their assistance became Author of great mischiefs to the *Roman* State. There was a certain *Grecian*, one *Musonius*, who aimed at the highest degree of Learning; and had three Sons, *Musonius*, *Antiochus* and *Axiochus*: of these *Musonius* and *Axiochus* endeavoured both in Learning and Integrity to excel the Vertues of their Father; but *Antiochus* his Inclinations ran quite contrary, and became an Instrument of dishonesty. *Rufinus* having in his head a design to make the *Barbarians* over-run *Greece*, preferred him to the Government of it; and withal, delivered the Custody of *Thermopylae* to *Gerontius*, who, he was assured, would be his Assistant against the Commonwealth. His eye all this while was upon *Alarich*, whom he perceived to be seditious, and to labour to exempt himself from the obligation of all Laws, being discontented that he was not preferred to the Command of the Army, but was left only Captain of those *Barbarian* Forces which *Theodosius* had committed to his Conduct at such time as by his Assistance he subverted the Tyranny of *Eugenius*. To him he sends Encouragement, with all secrecy, to draw out such *Barbarians*, or other Troops of what Nation soever as he could procure, and march boldly at the head of them, with assurance to become Master of whatever he should approach.

5. *Alarich*, in confidence hereof, departs from *Thrace*, and passeth into *Macedonia* and *Thessaly*, destroying all things in his way. When he came near to *Thermopylae* he dispatched away Messengers to the two lately mentioned *Antiochus* and *Gerontius*, to carry the News of his Approach. *Gerontius*, as he was instructed, caused his Guards to quit the Straits, and left free passage for the *Barbarians* into *Greece*; who being once there admitted, fell upon razing and wasting all the Country: The Cities they raze, they kill all the Males that were come to Puberty, and drive away the Boys and Women, together with the great Booty now in their hands. All *Boeotia* and other Regions of *Greece* which they once entered they depopulated, and the Devastation was still manifest in the days of *Zosimus*, *Thebes* excepted; which escaped their fury, partly by reason of the strength of its Fortifications, and partly because *Alarich*, hastening to the Siege of *Athens*, would not make a stay about that City. And to *Athens* he came, supposing he should easily become Master of it, both for that the place was too large to be well defended; and he thought that being possessed of the *Piraeus* adjoining to it, that so many Inhabitants would soon be pinched with want of Necessaries. But the Antiquity of the City (*Zosimus* tells us) in so impious an Invasion, implored Divine Assistance, and was to remain free from Devastation: and the Writer thinks himself concerned not to pass by in silence the cause of its preservation; being absolutely divine, and such as ought to excite all its Auditors unto Piety. When *Alarich* came before the Town with all his Forces, he beheld *Minerva*, the Defendress thereof, taking a view of the Walls in the same shape as she was seen amongst the Images, viz. armed, and ready to fall on such as she had seen approaching. Moreover, he beheld *Achill*, the Heroe just accoutered after the manner wherein *Homer* represents him to the *Trojans*, when in a rage he fought against them to revenge the death of *Patroclus*. With this Apparition *Alarich* being frightened, omitted all manner of Hostility against the City; but sent and offered Peace to the Inhabitants: who accepting of the Terms, Faith for performance was given and received on both sides, and *Alarich*, with a few in his Company, was admitted into the Town. There being received with all manner of Civility; when he had washed, and been entertained by some of the chiefest Citizens, who also presented him with such Gifts as they thought would please him, he departed from that City, and quitted all *Attica* without doing the least damage to it. And thus the City of *Athens*, which in the time of *Valens*, when all *Greece* was sorely shaken with an Earth-quake, alone sustained no loss at all, now also, though in so extreme danger, yet escaped.

Hanc Zosimi fabulam vide abunde confutari a Raynou in Annal. ad hanc Annam.

Sect. 1.

Alarich in-
vades Pelopon-
nesus.

6. But *Alarich* having quitted *Attica* without doing the least harm therein, so much awed by the Apparitions he there saw, invaded *Megaris*; wherein having taken the first Town he met with by Assault, he hastened toward *Peloponnesus*, never being found to make any resistance. And *Gerontius* giving him free passage through the *Isthmus*, he might easily become Master of all the Cities without any pains or Combat; for they were not fortified by any Walls, being thought secure enough in the Defence that should be made for them in the *Isthmus*. Presently then was *Corinth*, with the Neighbouring Towns, taken by Storm; and after it *Argos*, together with such places as lay betwixt it and *Lacedamon*. And *Sparta* it self fell in also to the bargain, being partaker in this Calamity of *Greece*, for that it was neither fortified by Arms nor Men (as it ought to have been) through the Avarice of the *Romans*; but exposed to the Custody of such Magistrates as were Traitors, and ready to serve the lusts of those that were in power, in all things, though to the Destruction of their own Countrey. However, the Calamity of *Greece* now coming to the ears of *Rufinus*, increased the fury of his Ambition more than ever, which he hoped would better succeed while the Empire was thus disturbed. But *Stilicho* shipped his Men, and resolved to succour *Achaia* in this her distress; and landing in *Peloponnesus*, put the *Barbarians* so much to it, that they fled into *Philoë*; where wanting Necessaries, he might easily have ruined them, but that he gave up himself to mimicks, to Wenches, and other silly and immodest Diversions which he found in those Parts; affording, in the mean time, to his own Soldiers liberty of consuming what had been left by the *Barbarians*, whom he also permitted to depart with all their Booty out of *Peloponnesus*, and to pass into *Epirus*, the Cities whereof they harassed as they had done formerly those of *Greece*; which perceiving, he returned again into *Italy* without having any thing performed but this, that he added, by the Men he brought over with him, greater mischiefs to those which had been sustained by that miserable Country.

Stilicho makes
a silly and
fruitless jour-
ney against
him.Being [retur-
ned into *Italy*,
he sends an
Army into the
East.

7. Being there arrived, he endeavoured to bring about the Destruction of *Rufinus* after this manner. He remonstrated to *Honorius* that it was needful to send over some Forces to his Brother *Arcadius*, for the Succour and Defeat of those Countries which were so miserably oppressed under his Command; and having easily obtained Orders to execute what he proposed, appointed what Men should be sent under Conduct of *Gaines*, to whom he opened his mind, as to what he would have put in practice against *Rufinus*. *Gaines* having got near to *Constantinople*, sent notice of his Approach to *Arcadius*, and how he was come to his Relief with an Army now at hand: And when the Emperor expressed much satisfaction therein, he persuaded him to come in Person to meet the Soldiers; affirming that this Honour was wont to be done to Military Men. *Arcadius* complying, met them out of the City, and the Soldiers there paid him that respect which was due unto him; who also made his Return of Civility for their Adoration: But then, the Signal being given by *Gaines*, when they had encompassed *Rufinus*, they cut him in pieces; one taking off his Right Hand, and another his Left, and another parting his Head from his Shoulders; whereat were given such shouts, and Triumphs expressed, as had been usual after Victories. And they so contumeliously treated his dead Body, that they carried his hands up and down the City, and desired those they met to give something to that Insatiable Creature. Thus perished *Rufinus*, as he had justly deserved; who had both been the Author of insufferable Mischiefs to private Persons, and of great Calamities to the Publick State. But *Eutropius*, who all this while had been assisting to *Stilicho* in all things he devised against him, now governed all things in the Court; and most of his Estate he secured to his own use, though he granted liberty to all to reassume what had been taken from them. His Wife and Daughter, for fear of perishing with him, had taken Sanctuary in a Church of the Christians: And then he permitted, giving them his Word, to sail to *Jerusalem*; which formerly was the Habitation of the Jews, but from the time of *Constantine*, had by the Christians been much beautified with Buildings.

Which de-
stroys *Rufinus*.*Eutropius* go-
vern all in
the East after
his death.

8. Thus writeth *Zosimus* concerning the Ambitious Practices of the two Guardians, intrusted by *Theodosius*, presently after his death: To the main of whose story all other Authors agree, though some with variation of certain Circumstances. As to the Invasion of the Eastern parts of *Europe* by *Alarich*, they are of accord: But other Historians make mention of some parts of *Asia* also to have been over-run and wasted by that Flood of the Northern Nations which *Rufinus* let out into the Empire. *Socrates* and *Sozomen*, our Ecclesiastical Writers, make mention of *Armenia*: But *Claudian*, the Pagan Poet, in the second Book of his In-
vective

What other
Historians
write of this
SubjectA. D.
395.Lib. 6.
Lib. 8.

I. vective against *Rufinus*, reckons up many other Countries ; who, though he particularly sets forth the Enormity of his Acts, yet possibly might be true enough in his Geography. Some *Barbarians*, he saith, at his call, by the way of the *Danube*, some by the *Cassian Straits* and the *Snows of Armenia* invaded the Riches of the East. Hereupon *Cappadocia*, *Lydia*, *Cilicia* and *Syria* were wasted, and hence came the Lamentations of *Asia*. In *Europe* they over-ran whatsoever lay betwixt the Borders of *Dalmatia* and *Pontus*, with the *Adriatick Sea* : There no Cattel, nor owners of Cattel were to be found ; but the Fields like to the Deserts of *Lybia*. In particular, *Theffaly*, *Macedonia*, *Pannonia*, *Thrace* and *Mysia* groaned under the burthen of so heavy Oppressors ; in so much that the poor Inhabitants, as happens in long and grievous Calamities, were put past weeping, the thing being now made solemn and of course, and the custom depriving them of all fence of the Evil. Hereupon the Poet falls into a fit of Grief and Lamentation, considering how great things have a suddain period ; how that that Empire, which with so much blood was obtained, and with so much preserved, with the labour and sweat of so many Captains, which in so many years the *Roman* Valour and Diligence had laid together, should in a short time be overturned by a lazy Traitor ; who, while all hands were at work to defend *Constantinople* from the rage of the approaching flames, beheld, as he saith, the Burning and Ruin of the adjacent Country with laughter ; and boasted of his interest with the Enemy, whom he imitated in his very habit. The People of the East, though labouring under these miseries, yet had this misery more upon them, that they durst not complain, nor be seen to shew a Countenance inclining to discontent : But if you believe the Poet, who, in his Poems against *Rufinus*, as well as the other written on purpose in commendation of *Stilicho*, still claws this person, secretly wished for his Coming ; as placing their hope and confidence in him alone.

9. And as soon as the Season of the Year would give him leave, he made effectual Preparations for their relief, and got together both his Western and Eastern Troops ; so many as scarcely had been beheld under one Command.* There you might have seen the *Armenians* with their wreathed Locks, and their green Coverings made fast to them by easie knots ; and the fierce looking *Galls*, with their yellow hair. Those whom swift *Rodanus*, slower *Araris*, whom the *Rhine* at their Birth did explore whether they could swim ; and whom the more speedy *Garonne*, turned back by the Tide, did water, made there their appearance, and that unanimously, laying aside their former differences ; he that had been lately beaten not hating him that had given him the Defeat, nor he that had the better priding himself in his success : But all together conspiring to favour and to love their General, though the noise of the late Alarms and sights was scarcely ceased, and as yet their blood and spirits could scarcely be cooled. *Rufinus* was not so deaf but he presently had the noise of the Expedition ; he grew pale, his confidence failed him : He stood doubtful whether he should run away, beg pardon, and submit ; or betake himself to his Friends, the Enemies of the Commonwealth. His Wealth, his great Buildings and Pomp now standing him in no stead, he sighs, he moans, starts out of his bed in a distracted sleep, and suffers Punishment in the very fear thereof. At length, from Stupidity he returns to his own natural temper ; and in a rage enters the Palace, and gets Audience of *Arcadius* ; to whom he lays open the vast Ambition of *Stilicho*, the danger which threatned him his Minister, against whom all his Plots were levelled : He desires, nay, importunes him to divert the Storm ; or else threatens that he will not fall alone, but that his blood shall be mixed with that of another person. Herewith he extorts a Message unto *Stilicho* from the unwilling and dissatisfied Emperor. *Stilicho* now imagined he drew near his Enemy, and joyed to think he should shortly come to an Engagement. The *Armenians* he placed on the Left, and to the *Galls* he assigned the Right Wing of the Army : But when he had now reached *Theffaly*, and longed to relieve the distressed Countries, a rumour is spread through the Ranks of Soldiers of new Orders arrived from the Emperor, which how to receive the General knew not, being so much disordered at so unexpected an Accident. At first he stands astonished betwixt sorrow and anger, admires that a Coward had so much power : and then considers whether he should proceed notwithstanding *Arcadius* his Command to the contrary, or else give over his so hopeful a design. He desires nothing so much as to succour *Illyricum* ; but reverence of Authority and Obedience conquers his Valour : On one side, publick Convenience moves him ; but on the other, fear of Reprehension. Having shewn some passion, and exclaimed that *Rufinus* should thus procure the Destruction of the Empire, he gives Command

A. D.

395.

Eheu quam ore-
vibus perenni
ingentia fatig.
Imperium tanto
questum san-
guine, tanto Ser-
vatum quod
mille ducum pe-
perere labores.
Quod tantis
Romana manus
contexuit annis,
Proditor unus
iners angusto
tempore vertit,
&c.

penam que
luit formidine
pena.

Sect. 1.

Command for a Retreat. Hereupon the Poet makes the Soldiers extraordinarily discontented, and to fret that the Discord of the *Romans* should thus promote the Interest of the *Goths*, and to offer their Captain to follow whithersoever he would lead them.

A. D.

395.

Semper
Getis di-
dia nostra
Proderit e

Sends the Eastern Troops into their own Countries.

10. However, *Stilicho* being pertinacious in his Resolution to obey, dismisseth the Troops that were to march Eastward, into their own Countries. At first they take it ill, as slighted by him; but in consideration of his worth, and that in probability they shall be by *Rufinus* delivered up as a Prey to the *Hun* or *Alan*, they vow that where ever they are, he shall be their Captain still; though absent, he shall have experience of their being fast and faithful to him. In conclusion, e'er long he should have a Victim offered him by their hands, a Sacrifice wherewith he should be very long and much pleased. These Eastern Troops keeping their way, arrived at length at *Theffalonica*; where recollecting what they had resolved, they become more violently inclined to the Prosecution. Here the place and the time both conspired to their farther Union. Neither of such multitudes was one found to betray the Secret; in so much that the Poet either feigns or finds an Object of Admiration that such a matter could be suppressed in silence, so great a design concealed, and so great an Heat stifled in Travel by the way; especially in their Cups and Entertainments. But in this silence and unheard of resolution they pass *Hebrus* and *Rhodope*, and through the Mountainous places of *Thrace*, on as far as the City which in those times bore the name of *Hercules*. *Rufinus* by this time had received tidings of their Approach, and thereupon triumphed as one who imagined all things not only safe and prosperous about him, but big of Empire and Dominion. And not able to suppress his joy, he summoned together his wicked Counsellors; who looking upon him, and adoring him no otherwise than as the Rising Sun, had promises from him of answerable Kindnesses: and now they divide the Countries and Cities amongst themselves. But this Army being drawn upon the Plain which lay to the South of *Constantinople*, all the rest being surrounded by the Sea; and leaving but a narrow passage, the Emperor first came out, and saluted them in their several Squadrons. Him followed *Rufinus*, who omitted nothing of fair language; but called them by their names, and magnified their Acts, with a Congratulation for their safe Return to their Relations. They answered him, and by several discourses drew out the time in length, all they could contract their Ranks, and incircle him; which they did not only by their Companies drawn together, but by their Targets also formed to the shape of Pallisado.

Which coming to Constantinople,

Kill Rufinus.

11. *Rufinus* was utterly ignorant of what they designed all this while, and plucked the Emperor by his Robe; complaining and chiding that he did not ascend the Tribunal, and declare him his Partner in the Sovereignty. With that they all drew their Swords, and in a confused noise demanded of him if he imagined to make them Slaves who had given Laws to some, restored others to liberty, had twice put an end to Civil Broils, and broken through the *Alps* themselves: And they told him plainly, that by so many Wars they were sufficiently taught, not to serve a Tyrant. Being now entrapped as some wild Beast in the Theatre, one from amongst the Croud runs out upon him; and giving him a blow, tells him that it was *Stilicho* who struck him by that hand; that *Stilicho* whom he had boasted to have driven from those Quarters. This blow being struck, was followed with innumerable others; happy being he which could get a stroke, or have any limb or member of him; which they carried aloft, as in some solemn Triumph, especially his head: and such as bore his hands begged something to be bestowed on them, and moved his fingers so far as to receive it, while in the mean time the multitude from the City glutted their eyes in his blood; and such as had lost their Relations by his procurement, rejoiced to see him brought to the same, or had it been more ignoble end. Hereupon the Poet takes occasion very fitly to admonish all persons in prosperity, not to trust to Fortune, which seems at present to smile upon them, seeing that all things in this World are utterly slippery and inconstant. For that hand which now addressed it self to bear a Sceptre, which had been so often kissed by the suppliant Nobility; being torn from the Carkase, and both remaining unburied, after death it self now went a sad way of begging. Let him that carries his head so high in his prosperous Estate cast an eye toward it, which formerly so great and powerful, was now thrown in the Streets to be trod on by any man. He who built Pyramids, and provided a Monument for his Sepulture which equalled Temples, who thought of nothing but being cloathed with Purple; now became naked, as he was, and a Prey to the Fowls of the Air. He who had in his thoughts possessed himself of the World; now lay wanting a little earth, was buried by parcels with a thin Mold

Mold; and was often buried, and yet no where. Of the Poet's witty Description of *Rufinus* his appearance before *Minos* and *Rhadamanthus*; how, astonished at his Crimes, they would not suffer him to remain in the ordinary place of Malefactors, but condemned him to be whipped out of *Styx* and *Erebus*, to an empty Dungeon beyond the Darkness of the *Titans*, the utmost *Tartarian Recessus's*, the *Chaos*, and the very Foundations of Night; and there to lie and gape as long as the Stars wheel about the Pole, and the Winds beat upon the Sea Shores. We shall commend the honest Contrivance, not the History.

A. D.
395.

12. Though these Poems be out of our Road, yet it cannot be denyed but that for want of more known and certain Paths, it may be convenient sometimes to turn into them. The main thing wherein he differs from *Zosimus* is this, that *Stilicho* was letted in his Proceeding by the expresse Command of *Arcadius*, extorted by *Rufinus*: and indeed strange it is, that he should only be diverted by Women, and other effeminate Diversions he met with in the Country. And *Claudian* makes the Destruction of *Rufinus* to have been devised by the Army, without any Plot or Forecast of his; wherein possibly he uses Poetick liberty, though much he insists upon that wonder, that an Army in their March and Cups could conceal a matter so resolved amongst themselves. However, such was the end of that ill Minister, who had for three Years and above, ordered the Affairs of the Eastern Empire according to his own Will and Lust. And now, having been hitherto diverted by the Ambitious practices of him and others, we must consider what farther happened of Concernment in the mean time. We find that *Stilicho*, before his late mentioned Expedition into the Parts of *Greece*, marched into *Rhetia*; and by the terror of his Name and Approach so terrified the Kings of the *Franks*, the *Suevi* and *Allemands*, that they begged Peace; though *Marcomeres*, King of the *Franks*, made a great stir in his Country, but the People drove him into Exile: and when his Brother *Summo* seemed to revenge his Cause, he was killed by his Country-men: After a League and Friendship was concluded betwixt them and the *Romans*. All this Year *Arcadius* had his Residence at *Constantinople*, and *Honorius* at *Milan*; where they were put upon enacting several Laws, as the state of the Empire required; at least, as they judged which were next about them.

no quiet
Franks,
and Al-

Sigon

Censuales
a Com-
to Arca-

13. As amongst Arms, so in the midst of Arbitrariness and Tyranny, Laws are wont to be silent, so we find it to have happened this Year in the East; there being few found dated from *Constantinople*; especially in respect to those enacted in the West by *Honorius*. But in the Month of *May* *Arcadius* was presented with a Petition from the *Censuales*; who complained, that by a Rescript obtained by stealth, their Office in the Senate-house was invaded. We have formerly shewn how these *Censuales* were employed in the Senate, and how they wrote and recorded the Acts thereof. Now it seems that Officer who had the Style of *Princeps Officii*, belonging to the *Praefect* of the City, having also to do in the Senate whereof his Master was *Praeful*, interferred with them, and intruded into some work and profit which of Right did belong unto them. For in Answer to their Request, so *Arcadius* decides the matter, in an Act of State inscribed to *Theodotus*, *Praefect* of the City; That he will have all Citations of all Causes and Persons, although of *Senatorial* Dignity, to belong to the *Princeps*. So that all Beginnings and Introductions of Causes, for which certain Fees were wont to be paid, were to be peculiar to him; whose employment it was to introduce both such as were at Law, and their Advocates, into the *Secretarium* of the Judge, and into the Senate such as had business to do therein. But all other Acts he will have dispatched by the *Censuales*, neither any prejudice to arise to such as had made their Applications to them by vertue of the Subreptitious Rescript; So that all the business belonging to Persons once cited and introduced shall be theirs, who understanding very well, and dealing in the *Census* of the Senators, or the value of their Estates, had also sometimes power to nominate *Prators* to this or that *Pratorship*. And as they kept and ordered the *Albus* or Roll of Senators, if any *Prator* was missing, they celebrated Games for him at his charge. It also belonged to them to take care that every one in the City used a decent Habit, and befitting his Quality, especially Senators; with other things we have already observed. This same Month he confirmed a certain Privilege which his Father had granted to the *Agentes in rebus*, at the Petition of some persons concerned. It was for the erecting of a new degree of Honour and Place amongst them; which *Arcadius* signifies to *Osias* the *Magister Officiorum*, that he will have it joyned to that of the *Centenarii*, or equalled with it; which, of the five Degrees in the *Schola* of the *Agentes in rebus*, was the Second; after the *Ducenarii*; before the *Biarchi*, *Circitores* and *Equites*.

takes or-
tercin.

gratifies
gentes in

L. 5. de Prince-
pib. Agentium
in rebus, col.
Th. lib. 6. tit.
28. Dat. 12.
Kal. Jun. et L.
2. col. Just.
cod. tit.

L. 7. de Agen-
tib. in rebus.
cod. Th. lib. 6.
tit. 27. Dat. 6.
Kal. Jun. Al-
est. cod. Just.

Sect. 1.
And further
regulates their
Functions.

14. At the later end of this same Month he still concerned himself about the Functions of the *Agentes in rebus*, there being report made of their clashing with the Magistrates of the Provinces in the Management of the *Cursus Publicus*. He resolved that in every Province there should be one established (by the name of *Curiosus*) who should have nothing else to do, but attend to the due management of that publick Service. Having appointed but one *Agens in rebus* for this work in every Province, he had the more reason to confine him to his Employment, two having formerly been appointed to this Service in every Province by *Constantius* his Predecessor. But he further prohibits these single *Agentes* or *Curiosi* to have any thing to do with the Governors of the Provinces, or the Provincials subject to them, or their Acts; so as only to take notice who made use of the *Cursus* without warrant, or in the use of it, exceeded those bounds and limits which were set them by other Laws. In the next place he forbids that they vex or trouble any Ships which by other Injunctions of Princes had been provided, although some Vessels upon certain Rivers were destinated to the Service of the *Cursus*. In the next place he prohibits that they receive any Complaints from the Provincials concerning any Injuries received by them, as formerly had been enjoined concerning the Stationary Soldiers; so as they shall not report these Complaints either to the Prince himself or the Defensors of the Cities. In the last place he declares that they shall not commit any one to Prison, which *Constantius* also had formerly prohibited; Which it was also unlawful for the *Defensors* themselves to do, though they might receive Complaints, and hear what might be said on all sides in reference to such things as were brought before them. But these Laws were trifles, and related to things of small consequence in comparison of another made this Year by *Arcadius*, and directed to *Rufinus* his *Præfectus Prætorio*, as yet living, concerning the performance of Oaths that had been made in Contracts by such persons as now were arrived at Age, or five and twenty Years; a Constitution so famous that many learned Lawyers have exercised their Wit and Reading upon it.

He restrains
Perjury by se-
vere Penalties.

15- By the ancient Roman Laws during the Commonwealth, the *Censors* had cognizance of Perjury, and in the Conviction and Punishment thereof were very diligent; yet did the Punishment only extend to Disgrace and Infamy, the great Revenge being left to God. Under the Emperors, sometimes perjured persons were beaten with staves, otherwhile banished for a time: But these were not such as committed the Offence in heat or passion, but those who in Judicial Proceedings, as in Instruments or Writings, forswore themselves. But now *Arcadius* thought it high time to put some stop to this Crime, often committed in Contracts and Agreements; subjecting to several severe Penalties him, who being above twenty five Years, should recede from any Bargain and Agreement to which he had sworn. In the first place, such should incur Infamy in a legal and political sense, not only as a Criminal is wont to do with all good men. In the next place, they should forfeit all Right to any Action which afforded cause or occasion to the Compact. Besides this, they should be obnoxious to any Condition or Penalty expressed in the Contract. And in the last place, if they had gained any thing by it, they should be compelled to restore it. But then, this must be understood to have happened in Agreements, Sponsions or Stipulations before going to Law, in such cases wherein an Oath was to be interposed. The Party also must be more than five and twenty; and not presumed to be of Age by favour and fiction of Law, as sometimes those are presumed to be, who have not fully compleated that term. If a Minor, when such had acted contrary to his Oath, he was not to be punished in this kind, yet he was compellable to keep it, which is also at this day practised in France. Again it is supposed that the Pact or Agreement was not extorted from the Party by any force of pain or terror, as it was too common in this Age; particularly, in the Dealings of *Rufinus* himself, as we have seen, to whom the Law is directed. And the Oath was to have been an Oath indeed, the Name of the Omnipotent God being solemnly invoked, or the Contract having been confirmed by swearing by the Health of the Princes, at this time a kind of Obtestation still common. This Oath must also have been really broken by some Contravention, some Act and Deed manifestly repugnant to the Oath; as if a man appealed contrary to his Oath, or betook himself by Petition to the Prince, so as by his wilful fact, the substance, solidity and firmness of the Act was impaired. For if the payment of Money had been deferred, or a man was, as they say, *in Mora*, he was not thereby subject to these Penalties; there being sometimes just cause for delay, and such as may be pleaded; and this Law, supposing the substance of the Pact violated by some Action. In the last place it is required that the Adversary of the supposed perjured

A.
39
L. 8. d.
his cod.
6. tit. 2
K. d. 7.
cello
sic.
Cod.
tit.

L. 8.
C. 7.
nibus,
lib. 2
Dat. 5.
Octobr.
4. C.
de Tra.
bus. 1
thes. i

Sect. I.

pay not in the Rates lately mentioned, they shall be levied out of their Estates. For, these Monitory Edicts for avoiding Inconveniencies were wont to be made, and published by the Præfects themselves.

A. 1

39

He restrains
the pride of
such *Curiales*
had arrived at
the degree of
Comes.

18. At the latter end of the year complaints were brought by the Governours of Provinces to *Arcadius*, against certain *Curiales* who had been honoured with the Dignity of *Comites*. When they had run through all the Functions of their Corporations, or had well discharged a message to the Prince, for their pains and fidelity they were often rewarded with the Honour of *Comes*, sometime of the first, second or third Rank; some of them hereupon would be puffed up, especially with this privilege which belonged to their new Degree, that the Judges of Provinces were bound to receive them with a kiss, and to admit them to sit upon their Benches. As familiarity breeds contempt, imagining that they were now their Fellows, they behaved themselves contumaciously toward them; and though they were still subject to their authority, yet would they not obey their Orders. Upon complaint hereof made, *Arcadius* in another Edict directed to *Cæsarius*, declares, that such *Curiales* as had obtain'd the *Honorary Comitiva* ought to stand in awe of those to whose Government they are committed; neither ought they to think that they have deserved the Dignity, that they may despise the Precepts of the Judges. If any of them shall persevere in such a fault, he will have him undergo a Fine of five pounds of Gold; and besides, be deprived of the honour, which by such folly he had betrayed. This is the last of the Laws which were this year enacted by *Arcadius* in the East. The Officers of his Brother *Honorius* in the West, being not so much distracted, had more leisure to attend Civil Business.

L. 150.
curionib.
Th.
Coo
tit. dat.
Jan.

Honorius makes
a law against
New-years
Gifts.

19. *Honorius*, at the beginning of the year, when he received New-years Gifts, found some inconvenience in the making of those Presents, which he thought fit to reform. The original of these New-years Gifts amongst the Romans is made by *Symmachus* almost equal to that of their City: for, he writes, that they were first offered to King *Tatius*, being no other than the Branches of a fruitful Tree which grew in the Grove of *Strenua* (the Goddess which made men strenuous or valiant, as *S. Augustine* reports of her, and had a Temple in the City) from which these Presents received the name of *Strenæ*: they were also called *Vota*, because at this time were Vows and Prayers made, both in the City and Provinces for the health and safety of the Emperours; and that by a custom derived as high as from *Fulius Cæsar*, *Augustus* and others; though after *Augustus* his time; other Princes varied herein, some admitting of it, some not, but it appears that it was in force in the days of *Arcadius* and *Honorius*. On New-years day the Præfect of the City, as the Epistle of *Symmachus*, then bearing that Office, makes it evident, in the name of the Senators was now wont to present the Prince with some pieces of Gold (five *Solidi*) in way of gratitude and offering for his vigilancy and strenuous demeanour, with their lucky wishes for his prosperity. This custom *Honorius* now thought fit to admit of, but withal to prescribe and assign some Bounds to this liberality of his Subjects, by declaring in an Edict directed to *Basilius*, Præfect of Rome, That when the happy year is opened by these public Vows, for one pound of Gold shall seventy two *Solidi* of that they call *Obryziacum*, be reckoned or valued; which value had been formerly ordained by *Valentinian* in the payment of Tributes. What should be meant by this *Obryzia* and *Obryziack* Gold, and whence the word should receive its derivation several argue divers ways, but by the Laws and otherwise it appears that by *Obryzum* or *Obryssum* was understood Gold refined, or frothing, as it were in the fire, and flowering, from which resemblance it seems to have received its Name. Now whereas in the days of *Valentinian* the Elder, there had been a great change made as to Coin, in the value of the *Aurei*, which from eighty four in one pound of Gold were brought down to seventy two, and as *Gothofred* is of opinion, so as the *Aurei* did not increase in bulk and weight, but only in value, so as seventy two of these eighty four, were to be taken and esteemed for one pound of Gold, as hereupon the pound decreased, so *Valentinian* ordained that the prizes of things should decrease. And whereas it became a question, whether the Present made by the Senate at the beginning of the New Year should be after the old mode and custom of the City (which allowed more to the weight of Gold than what was usually assigned in the Provinces) or according to the like Ordinance of *Valentinian*, to encourage the Senate to this liberality which might be a means to preserve kindness betwixt the Prince and Nobility, *Honorius* declares that he will be satisfied with seventy two for one pound of Gold, provided it be of that called *Obryziacum*, of the purer sort.

Lib. 10.
28. c. 1.
J. 1. 1.

Merito:
lenius p
cum qui
dis, ut
bus int
offerim
vester p
nofter
neratim
L. un. a
tione
Cod. Tit.
Tit. 24
L. un. Co.
cod. tit.
Mart.
Gothofr
de illis
dicatur
vellet
mam
qua
tunc
de
de
de

20. About this time complaint was made by some Inhabitants of *Campania*, that they were oppressed by the Collectors of Tribute. For, *Campania*, as we have said, being a Country lying near to *Rome*, and subject to several Impositions for maintenance of the City, had, however from its fruitfulness it was termed *Felix*, yet several barren and unimproved Grounds which were wont to have indulgence or immunity from such Burthens. Yet scarcity of Provisions pressing the Citizens, the Owners of those Lands were it seems called on, and a new Book of Rates had been made, wherein they were also Cessed to afford a share. Upon complaint hereof made, Inspectors were sent down to consider, and report the matter how it stood; and their report so far approved the complaint, that *Honorius* now by an Edict directed to *Dexter* the Praefect, declares immunity to five hundred twenty eight thousand and forty two Acres, which appeared from the old Records to have enjoyed formerly the like privilege. And as some indulgent Emperors had done before him, he commands the New Books, called *Censuales* and *Polyptici* to be burned by this same Law, which is rationally thought to have been made in obedience to *Theodosius*, who, as *S. Ambrose* relates, did in his last Will and Testament give order for such Relaxation of Tributes. And whereas under the Tyranny and Rule of *Eugenius*, being of such continuance, many voluntary Con- tracts had been made, and other matters had passed as in ordinary course of Law, *Honorius*, to prevent confusion, and unravelling all things in the Countries that had been subject to him; thought fit by a Constitution inscribed to *Andromachus*, Praefect of *Rome*, to confirm all Acts which had happened voluntarily between party and party, without any fraud, force or fear. But with this Proviso, that in all Instruments, the Names of his Consuls (these were *Arbogastes* and *Nicomachus Flavianus*, his two great Friends) should be abolished, that they might not receive the reverence usually made by acclamations when there was occasion to hear their names read or mentioned in Courts. And whereas upon the omissions of the names of Consuls in Deeds or Instruments, a valid exception lay against them; he declares this shall be no Plea in Law, but they shall be of force however, though with such omission; the time of Tyranny or Usurpation being esteemed as never to have been, and whereof nothing could be prescribed.

21. The publick Acts of *Eugenius* himself were now declared null and void, as was wont to be done in such cases; and not only his, but some of those of *Maximus* also, though dead several years before; for, some time was required for bringing to light several inconveniences arising from what passed during this long Usurpation. He had alienated some Lands of perpetual Right, as they called them, belonging to the *Res privata*, or Patrimony of the Prince, and that by Institution and Decree of the *Rationales*; whereas these Alienations belonged not to them, but to the Ordinary Judges of Provinces, and therefore by an Edict directed to *Eulogius* now Comes *R. P.* the Emperour declares that such as had come by such Lands in such a manner shall be deprived of them. Not only such as had obtained these publick Lands were forced to quit them, but those who had served in the late Usurpation of *Eugenius*, as Soldiers, or had some Offices under him, were as Traytors branded with Infamy. This continued till *Honorius* began to bethink himself of his dying Fathers Commands and Example; who, as he left order in his Will, that indulgence should be shewed to his oppressed Subjects; so while he lived, he manifested much clemency to them he had already subdued; and made not such advantage of the successes of his Arms as he might have done; and dying so soon after his Victory, time was wanting to him, but not intention, to shew much more his Generosity. Therefore in a short time did *Honorius* enact a Law, directed to several persons, to be published in their several Jurisdictions; wherein professing that he ought to follow his Father's pattern, He pronounces pardon to all such obnoxious persons, and declares that he will place his kindness upon such as could not think of any such Beneficence; ordaining that those who fought under the late Tyrant, had discharged any Office under him, or been promoted to any Honorary Dignity, in what state or quality soever, shall not suffer for so doing any Infamy, or be polluted as he terms it, with any ugly name: but that they shall enjoy whatsoever Dignity they stood possessed of, before the time of the foresaid Tyranny.

22. In this Act of Grace and Pardon none was so much concerned as *Flavianus* the Praefect, whom, though some Writers relate to have died at the Fight when *Theodosius* passed the Straits, and entered *Italy*; yet that he survived the Victory, and lived to feel the effects of his clemency, we find in the Epistles of his dear Friend *Symmachus*, who took great pains in his behalf. The person he applied himself to

A. D.

395.

ves ease
Tribute
eral
in Cam-itary
during
re Usur-
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Señt. 1. as Mediator, was *Stilicho*, one who could best do his business, and he did it so effectually, that *Symmachus* gives him thanks for it in several Letters. In one he mentions how the Father of the Princes, now received into Heaven (*Theodosius*) had shewn before his death several examples of his clemency, and had restored to his *Flavianus*, whom he calls his Son, and sometimes his Lord (their unity in Paganish Superstition, as well as in other respects, caused this dearness) many things which by accidents had been taken from him. That one and the chiefest Title of goodness was reserved for his Heir (*Honorius*); which at length by his advice (meaning *Stilicho*) he had added unto his Father's Gracious Acts, concluding with himself, that time, and not any will was wanting to him that was deceased. But now (he adds) these Works of Clemency which by Fate had been interrupted, were by his Successor, most like to him in this respect, brought to perfection: that he had consummated what his Father had begun; as a reward for which, he wishes him such Advisers, (*Monitores*) or Counsellors as *Stilicho* himself, and those that are of the same humour; those who suggest honest and honourable things to Sovereign Princes, being the Instruments of a good Age. He acknowledges that in *Honorius* was a wit of a divine fountain, as he words it, and a nature prompt to all virtue; yet to use the comparison, the best Pilots might find assistance from the hands of the Rowers: he tells him, that he was rendered more careful of his fame, both by the trust he had in the Army, and the affection he bore him, as a Relation: and hence it was, that he invented for him ways of gaining love; and when he was employed in the greatest Affairs, advised him to have an eye to the condition of private men. But such evils as are incident to humane life are banished, and in the Senate is nothing sorrowful to be seen. To some, honour is given; to others it is restored. To one Family we owe whatsoever we are in particulars. What he speaks of here in general, he explains in some of his other Letters, wherein he signifies he was called to Court by the interposition and procurement of *Stilicho*, which they termed *Evocatio*; for in those times scarcely was it lawful for any to come thither, and leave their Country without leave first obtained; it being a special privilege granted to the *Decuriones* and the *Silentiarii* of the Palace, that after they had served their time, they might come when they pleased without the security of an *Evocatoria*. He writes moreover of his being called to the Dignity of *Consul*, and restored to the *Praefectship*. But before *Honorius* had given perfection to what his Father had done, he being incumbered with his small fortune in several difficulties; by various Letters, written to several men in place, he laboured to raise him Friends: *Protadius*, he prays to assist him in the matter of some payment due from the Soil, from his Father's time; alledging he was not able to undergo so heavy a Burthen. And to *Florentius*, whom he solicits in the same matter, he expresseth that having already obtained great things by the lenity of the deceased Emperour, that he may so say, he is yet strangled with this one knot of misfortune, being poor, and his Patrimony exhausted. Wherefore he tells him, that he, and such as he, ought to prevent his imminent Ruine. Thus stickled *Symmachus* for his Friend *Flavianus*.

23. At this time great Reports came out of *Africk*, that the *Curiales* generally deserted their stations, and consequently the Honour and Safety of the Cities which consisted in their Attendance and Services, much decayed. This drew out an Edict from *Honorius* to *Egnolus* the *Proconsul* of that Province, concerning the Nominations to be made of these persons, suitable to those of his Predecessors formerly related. And because to shun their Employments they pretended to travel, or to serve in the Wars; he now decrees, that if in the term of five years they do not return, their Estates shall be seized to the use of the Courts, for the discharge of the Duties and Charges from which they ran. Moreover, to gratifie the *Africans* in a matter wherein custom had engaged their affections, he decrees, that those of them called *Sacerdotales*, which were ordained for celebrating of Games, should be restored, pretending therein to renew a kindness formerly granted by his Father. Further, because great men were wont to receive these Fugitives under their Patronage and Protection, in *Italy*, as well as other Provinces, he thought fit to signify, a month after, to *Dexter* the *Praefect*, that whoever should harbour a *Curialis*, should forfeit the quantity of five pounds of Gold, and one pound for harbouring one of these they called *Collegiati*. But as complaints were made against *Curiales* their forsaking their Employments, so about this time against some Judges or Governours of Provinces for employing themselves too much in the hearing of certain petty crimes, which it was below their quality and degree to take notice of, and rather belonged to those inferior magistrates

For whom
Symmachus
much stickled.

A.
39
Lib. 4. ep.

Interpretat
scilicet D
Principi
pus non a
desinisse.

Ep. 5. ad Jul.
vide Jun.
tas.

Lib. 7. ep.
95, 103.

Lib. 4. ep. 1

L. 4. ep. 51

L. L. 141,
143, 144.
de Decur.
Dat. 27. C.
Jun.

L. 146. C.
De Curialibus
dat. 27. C.
Jun. Abest
Just.

Curiales in A-
frica restrained
from deserting
their stations.

et. 1. Magistrates they called *Irenarchæ* or *Defensors*, and Assertors of the Peace. One *Pasiphilus* was the Man that most bore the blame; and to him *Honorius* sent a Præscript in nature and force of a Law, To restrain his Covetous humour, and let him know what Causes he thought below his Cognizance: Such were those of a Slave that is run away; of Theft, whether manifest or not manifest; the taking away of Cattel, Slaves, any Goods by force; siezing on things Moveable or Immoveable, as on some small peice of Ground, Dung, or some Cottage. An Interdict or Prohibition relating to some Momentary Possession, which sometimes happened upon slight occasions; the removing of Cattel, and other small matters, wherein the Accuser was not to be forced to any Inscription; of which we have formerly spoken. He tells him he will have him Judge of Criminal Causes only relating to this Inscription, and of fit moment for his Authority; imposing a Fine of five pounds of Gold upon those his Officials whose Employment it was to stand at the *Velum* or Curtain, and to introduce Persons into the *Secretarium*, if they suffered any of these petty Causes to be entred and admitted. But *Justinian* afterward approved not hereof, but left the meanest Causes to the Cognizance of the President of the Province: Upon which account *Tribonian* omitted to put this whole Law into his Code, though he hath taken three pieces or Sentences out of it. So various are both the Humours and Exigences of times.

24. As some of the Civil Judges now a days condescended, out of a desire of gain, to intermeddle in things that were below them, so there were Military Men who thrust themselves into Civil Employments that were out of their Sphear, and above their reach. This tended to the overthrow of Discipline, and such persons by terror of their Arms, might put force and constraint upon the Actions of Men; and upon these grounds now did *Honorius* prohibit all those that did *Militare* (in which sense and meaning not only Soldiers in Arms, but Palatine Officers and Officials of Judges by the force and extent of the word may be included) to be Judges, Advocates or Proctors in Causes, though they had *Commeatus* or License to be absent from their Colours or proper Employments: And if any should, after the term granted in his License, continue in the Province, he commands that by Order of the Governor of that Province he be punished with Regradation, or put into a place and station inferior to what he held before; as stragglers and idle persons were wont to be punished. But now the time approached when the Senators were to make their Presents to *Honorius*, called *Aurum Oblatitium*, to express their joy for his coming to the Government: For this Gold was given of free Will, not by necessity and compulsion, as was that called *Glebalis Collatio*; nor with others, as that called *Aurum Coronarium*; but by the Senate alone upon such occasions, as were the Beginning of a Prince his Reign, his *Quinquennialia*, or *Decennalia*, and the obtaining of a Victory. From *Symmachus* it appears that when this Oblation was to be made, the *Præfekt* of the City was wont to call together the Senators that were in Town, or those that were nearest to it, to consult concerning the quantity and manner thereof; and when it was once voted by them, then it became a necessary Duty. When it was voted, thereof the *Præfekt* gave account to the Emperor; as *Symmachus* doth, in an Epistle written to *Valentinian* the younger; wherein he acquaints him that the Senate had exceeded the Summs given to his Predecessors: for his Father and Uncle for their *Decennalia* had received less, and so had his Brother *Gratian* when he celebrated the third *Lustrum* of his Reign: But to him, the Fathers had promised one thousand and six hundred pounds of Gold for the honour of his *Decennalia*, and that to be weighed by the great Weights of the City. Now, to avoid distraction in the Payment, *Honorius* ordains that such Senators as lived in the City, though they have Possessions in distant Provinces, shall pay it where they dwell, their Rents being wont to be returned thither by their Officers; but of those that had their Abode in the Country, the *Censuales* shall receive it; of which there were some that were employed in the Provinces as well as those in the City (of whom we have often spoken) the Employment of whom it was to dispose of the Collection of such Dues as were paid by Senators.

25. Whatever *Honorius* received now in way of bounty or otherwise, he was deceived much at this time by such as were continually begging of him, there being several Estates fallen to him by the Overthrow of *Eugenius* and his Party, notwithstanding the Act of Grace this Year published. Several Princes several ways had formerly endeavoured to obviate this Trade of those gaping Gourtiers, who, when they begged things of greatest value, were wont to dissemble and conceal the greatness of them. Some Princes would not hear nor make any Grant till the

A. D.

395.

*Pasiphilo sic
salut. m. l. 2.
de Jurisdictione
n. Cod. Th. lib.
2. tit. 1. Dat. 5.
Id. Jun.*

*L. 6. de Cogni-
tion. & Prae-
tor. Cod. Th.
lib. 2. tit. 2. &
l. 7. Cod. sup. de
Procurat.
L. ult. de Cogni-
tation. Cod. Th.
lib. 7. tit. 12.
Dat. ad Andro-
mach. prid.
Non. Jun.*

*lib. 2. ep. 27.
l. 10. ep. 25.*

*L. 5. de Senato-
riis. & Glebal.
& Cod. Th.
Dat. 18. Cal.
Octob.*

also Milita-
Persons
n meddling
Civil Mat-

regulates
Payment
the *Aurum
Oblatitium*.

Goods

Sec. 1.
And Grants
made of beg-
ged Estates.

Goods begged were first surveyed, and an Inventory made of them; as *Valens*, *Ciriacian* and *Theodosius* the Great. But now *Honorius* for some peculiar reason admitted of their Petitions, possibly to make a fuller discovery; but yet would not have the Grant or Donation to be good till an Inventory was made, and the first Donation was then confirmed by a new Assent to a second Petition. Amongst moveable things begged, he allows Gold and Silver, which rarely were wont to be granted, and his Brother the next Year prohibited to be begged, but only by the great Officers: And for Immoveables; Grounds and Houses in Cities, not those in the Countries, which for their Importance were usually excepted out of Grants. The Year was closed with the reconciling of some Differences in *Africk*. Formerly to provide City and Country with Necessaries, it had been granted that certain *Curiales* might be made *Navicularii*, of which now others there, made an Advantage, purchasing Estates obnoxious to that Function, that so they might evade the burthens of the *Curia*. *Honorius* thought it best to direct *Ennoius* the Proconsul (to whom he gives the Title of *Sublimitas tua*) so to distinguish betwixt such Services, that those who had got these Lands should be liable to the Function of the *Navicularii* for so much as they possessed, and yet stand obnoxious to the burthens of *Curiales*, it being in the choice and liberty of any one to purchase or refuse such Grounds as they knew were liable to Services that were incumbent upon the Soil. This he did to preserve the duties of both Relations. For other matters in question, and relating to these two Bodies of *Navicularii* and *Curiales*, he refers them to what had formerly been in such Cases determined by his Father.

He reconciles
some Differ-
ences in A-
frick.

Entropius en-
deavouring to
establish him-
self.

26. The Year CCCXCVI. had for Consuls *Arcadius Augustus* the fourth, and *Honorius Augustus* the third time. *Entropius* still domineered at *Constantinople*, and endeavoured to remove all out of the way that bore any sway at Court, to preserve himself in his power. Upon this account it was that he sought to intrap *Timasius*, who from the days of *Valens* had born the Dignity of *Magister Militum*, and had served in many Wars. There was one *Bargus*, a Native of *Laodicea* in *Syria*, an inconsiderable Man, who, for some Crime committed, fled from *Laodicea* to *Sardis*, where he became eminent for his Villanies. This Fellow, *Timasius* coming to *Sardis*, finding him facetious and of an insinuating humour, admitted to be familiar with him, and presently preferred him to the Command of a Cohort; and not only so, but he took him along with him to *Constantinople*. Now this displeased some of the Magistrates there, because *Bargus*, for some offences committed, had been banished that City: and *Entropius* having found out the Villain, thought him a fit Instrument to raise an Accusation against *Timasius*; and perswades him to produce some counterfeit Writings wherewith to charge him of affecting the Sovereign Power. The Emperor now executes the Office of Judge, himself presiding in Person at the Tryal; and *Entropius* being his *Propositus Cubiculi*, stands at his Elbow, and hath the power of the Sentence in his own hands. But all Men taking it very hainously that a Seller of Puddings and such like stuff should be the Accuser of a Person of such Dignity, *Arcadius* quits the Employment, and delegates the matter to *Saturninus* and *Procopius*. The former of these was an Aged Man, who had discharged great Offices; but was given to Flattery: and in the Judicature he exercised, was wont to please those who held greatest place next to the Prince. *Procopius* had been Father in Law to *Valens*, was fierce and intractable, and pretended in some matters to a great Affection unto Right and Justice: And in this particular he urged it to *Saturninus*, as a thing unreasonable, that *Bargus*, a fellow so notorious as he was, should be admitted to accuse so great a Person; but especially, he esteemed it shameful and absurd to the highest degree, that one so obliged, should endeavour to destroy his Benefactor. But for all this liberty he could not prevail, and *Saturninus* his Sentence took place; which was, that *Timasius* should be confined to *Oasis*, being conducted thither with a publick Guard. This was a barren place, out of which there could be no escape for any that was thither banished, so great and sandy a Desert did encompass it; in which was neither Tree, nor House, nor Way to be seen, which the Winds constantly filled up with Sand. But *Timasius* being thus removed, a rumour was spread abroad that he was carryed away by his Son *Syagrius*, who having escaped those that were sent to look for him, by the assistance of some Robbers, intercepted his Father: Which, whether it was true, or reported only to gratifie *Entropius*, no man knew; but certain it is that neither *Timasius* nor *Syagrius* were after that time any more seen.

Procures *Timasius*
to be ba-
nished.

27. *Bargus*, who had thus delivered *Entropius* from all fears of Competition as to *Timasius*, received as a Reward a Cohort of Soldiers, and went away deceived with hopes of Greater things. He imagined not that *Entropius*, who had so dealt with

A.

395

L. 2. de In-
vocatione. Cod.
11. 10. tit.
D. 1. 18.

Coc

L. 149. de D.
rationibus C. 10
Th. D. 1. 7. 1
Jan.L. 25. de N.
aviculariis Cod.
Th. D. 1. 7. 1
Jan.

A. D

396

Arcadio A.
4. & 11
rio. A. 1.Zosimus. lib.
p. 786.

of a Mulct of five pounds of Gold to be incurred by every one that receives them: Which severity was afterwards amplified by *Justinian*; who punished the Receiver with a Confiscation of all his Estate, and the Soldier with death after his having the Military Girdle taken from him; so necessary is the Observation of Military Discipline for the Preservation of the State. At the same time he was put upon it, as a thing very requisite, to provide for securing the Estates of Pupils or those that were left very young, against the Carelessness and Fraud of Tutors or Guardians. In order to this he ordains that the Tutor, as soon as he is assigned, shall go to the Judge or Governor of the Province, and there make an Inventory of his Pupil's Estate. This he will have solemnly done in the presence of the *Primates* (of the *Decuriones* formerly spoken of) the *Defensor* of the City (who was to have an eye to the condition of Children, as well as others, that wanted help) and of the *Scribes*, or Officers whose Aid was requisite for such a Work. Now, as for the End and Design of making this Inventory; by a *Senatusconsultum* in *Severus* his time, and a Decree of his, it had been ordained that Tutors, with the Money they found in the House, and such as they could raise by Sale of Moveables, should purchase Land if it were to be had: if not, they were to put it out to Interest with the best Prospect of Safety they could make.

32. *Constantine* thought fit to restrain this liberty allowed them; prohibiting them to sell Gold, Silver, Gems, Cloaths, or such things moveable, because the way of putting Money to Interest was very uncertain, and often times all that the Children had consisting in it, if it miscarried, they must necessarily be undone. *Arcadius* now useth a Distinction for Accommodation of this matter; ordaining that if the Pupil have Lands or Revenues wherewith to maintain him, then such Moveables as Gold, Gems, and other things that would not perish with keeping (for by the Law Guardians were bound to make Money of those that would) shall not be sold, but safely locked up somewhere under the Seals of the *Primates*, *Defensor* and Officers, till the Child shall arrive at Lawful Age. But if there be no Lands, or not Revenue sufficient for Maintenance of the Pupil, then shall they be purchased with the Money arising from the Moveables; which shall be put to Interest if Lands be not to be had. He was of Opinion with *Constantine*, that there was great hazard in putting out of Money, and that it had better lie dead than miscarry, besides the trouble to which the Guardian was to be put, if it were placed in ill Hands. But in case of necessity, if the Child had no Revenue, then he thought it as convenient to venture it as to spend upon the Stock. What he thus ordained was afterward altered by *Tribonian* in some respects. First, as to the time of making the Inventory; for *Arcadius* requires it be as soon as the Tutor is assigned, or in the same moment: Which he changes for a word of more Latitude; some being of the Opinion that three Months are allowed for a Tutor, as well as to an Heir, for the making of it. In the next place, he took away the necessity of going to these *Cognitores* or Judges; allowing it as sufficient if the Inventory was made in the presence of publick Persons; naming others beside these required by *Arcadius*. The Seals of these Judges, Senators and Officers he required not, neither the Authority of publick Sentence for locking up the Goods. He takes away the Distinction of *Arcadius*, ordaining that either Land be bought with the Money, or else that it be put to Interest; and he speaks of safe keeping of it, though he will not have it to lie idle. Afterwards, *Justinian* bethinking himself, commanded that the Money should not be put to Usury, without a necessity was found for so doing.

33. Such care was taken by *Arcadius* for securing the Estates of Children, when left unto them: But there was further need at this time to prevent Questions and Disputes whether they were left or not, such holes were picked in Testaments by those that were concerned or over-busie. Sometimes a mistake might happen in a Testator or a Scribe, who might call that a Codicil which he meant for a Testament; and, to speak truth, most Testators were so timorous at this time, that, despairing to observe that exact diligence which the Law, as was pretended, did require, that they would call their Wills By several names, and add Clauses at the ends of them. Now, these Mistakes, Cautions and Superfluities he declares shall not at all hinder the effect of the Testaments, provided the Solemnities thereof be evident; it being a Rule, as well in Testaments as in Contracts, that superfluous Acts or abundant Cautions do no harm. Moreover, though at the beginning of the Testament the Testator made mention of no Witnesses at all, or spoke of more or fewer than indeed he made use of, or mistook their Names, so long as he made use of a Lawful number, it should suffice; for in this Age the

A. D.
396.Novel. 116. de
MilitisL. 4. de Admi-
nistrat. & p. vi-
culo Tutor. Cod.
Th. lib. 3. tit. 19.
Dat. 6. Cal. Mar.
l. 24. Cod. Just.
tunc interpolata
est.Pro eodem men-
mento max.

Novel. 72. c. 6.

L. 3. de Testa-
mentis & Codi-
cillis Cod. Th.
lib. 4. tit. 4. Dat.
12. Cal. Apr.
Prior huius les-
sars consilia est
July 17. Cod.
Just. cod. tit. ca-
tere a Tribonia-
no rescata.

Sect. 1.

custom was to preface the Wills with a Declaration what sort of one they purposed to make, and what Witnesses they intended at the Publication. But then he requires the Legal Requisites about Witnesses, as that they be five in number; that they be called for that purpose, and be not ignorant what they come about, and the Testator see them present. But he declares that there is no need that they know the Contents of the Will; but the Testator may declare that Writing to contain his last Will and Testament, and desire them, as such, to set to their Hands and Seals. And lastly, moved by the Opinion of the great Lawyer *Scævola*, and swayed by his Judgment, he thinks it lawful for the Witnesses to have Legacies left them without taking away their Testimony, and so rendering the Will Null, and of none effect. As for the five Witnesses, they were ordained to be so many by the ordinary Common Law: When the Will was made, as they say, *per as & libram*, by way of Sale by Money weighed in a Ballance, there being then present, besides the five Witnesses, he that held the Balance and he who was said to buy the Estate or Family. But else, by the Law of the *Prator*, when this Solemnity, *Per as & libram*, was not in use, no fewer than seven Witnesses were to be present.

Codicils what.

34. Such reason did the *Romans* find to be so accurate and careful in the making of Testaments, wherein whole Estates are wont to be conveyed. It was free for any one to make use of whether of these Courses they pleased, either of the *Æs & libra* when *Mancipation* was made, or of seven Witnesses when it was not; for they were still both in use in the time of *Arcadius*, though afterward, when the *Pratorian* and *Civil* Law became united together, the use of the *Æs & libra* by degrees grew obsolete, and the use of five Witnesses came to be generally received. So the Law stood as to Testaments; but as to *Codicils*, seven Witnesses were thought fit to continue. These *Codicils*, as to their first Original, were Writings made by the Testators for a Supply or Amendment to their Testaments; but afterward they were made when new Testaments preceded, and when otherwise the Party died intestate; and in this case because in reality they had the force of Testaments, and operated accordingly; therefore as great a Solemnity was requisite at the making of them; although, if a Testament did precede, then no Heir could be instituted by virtue of a *Codicil*: And afterwards *Justinian* absolutely forbade that by a *Codicil* any Heir should be instituted. But that we may joyn things of the same subject which happened so near together, and were ordained by the same Person, *Arcadius* the following Year, by an Edict sent to *Africanus*, the *Præfēt* of *Constantinople*, commanded the old Custom to be observed, of opening or publishing Testaments, after the death of the Testators, at the Office of the *Censuales*, or before the Master of that Society; otherwise he would have them void and of none effect. This was a certain Course to prevent Frauds, and here was the Register wherein were recorded, insinuated and preserved not only these Publications of Testaments, but other things, as Contracts, Donations, and the like.

35. But besides this way of Certainty which the Testator might be assured of after his death, he might, while he yet lived, use greater Caution if he so pleased. He might publish his Will, and have it recorded in the Acts of any Magistrate who kept a Court, or had an Office of Record; or in the Consistory of the Prince itself, which was the safest course: Or any one, though he had made his Will elsewhere, might lay it up or deposite it in any Registry. But *Arcadius* prohibits any Change to be made from Court to Court, there being other Judges that pretended Privileges at this time to prove Wills, besides the *Defensores Ecclesiarum*, who were Clerks; which was the Cause that this Law was afterwards reinforced by *Justinian*, who imposed a Mulct of fifty pounds of Gold upon any that should offer to prove the Will except the *Magister Censur*, besides a grave Reprehension to Clerks for intermeddling with such matters; for this he thought fitter to inflict, than that any Man's Will should be ineffectual. As for the *Censuales*, they thought themselves skilled in matters of Judicature, and therefore fittest to manage those matters; whom they forbade to take any thing in way of Fee, if the Inventory of the whole Estate exceeded not an hundred *Aurei*. As for what *Arcadius* declares in reference to the Legacies left to Witnesses, though the matter hath been much controverted, and that from two Laws, as *Fureus* observes; yet hath his Opinion rather obtained, especially in ancient times. For that the Legacies were due, was the Opinion of *Trebatius* in *Augustus* his time: Under *Nero* it was the practice; as also under *Trajan*. In the Reign of *Marcus Antonius*, *Scævola* whom the Emperor here commends, held it for good Law; and a dozen Years before *Arcadius* published this Edict, when *Symmachus* was *Præfēt* of *Rome*, he hath approved of, and practised

Whether a Legatee can be a Witness.

A. 1.
390

*Ubi Leg. 2.
inst. de test.
et testam. l.*

*L. 4. de testam.
l. 18. de testam.
cod. tit.*

*Ubi L. 19.
Inst. de testam.*

*L. 23. Cod.
de testam.
Abstrusum
namque, si
miscuis
rerum turbi
officia &
credidit
subtrahat
præcipue
eis, quibus
probrum
probrum se
line distem
onum effi
sum.
Ex Leg. 24
qui testam.
re pos & L
Testam. Cod.*

practised it; as he tells the story himself in a Relation made by him to *Theodosius* concerning the Testament and Estate of one *Aggaria*. The Estate being granted away, as fallen to the Treasury, in case no Lawful Heir appeared, amongst other Tricks this Objection was made, that the Witnesses had a Legacy left them in the Will, and a Rescript of the Emperor's was alledged to prove that the Testimony of a certain Witness was rejected, who by his witnessing would have helped his own Cause; as if it was the same thing, and a little respect shewed to the Witnesses, merely out of Friendship, could hinder or abolish a Lawful Judgment. If, saith he, we should live under such Laws, it would be better and safer to have our Enemies for Witnesses, to whom for their Enmity the Testator would be sure to leave nothing. I am grieved to say that the greatest Legacy amounted but to five *Solidi*, the rest being rather remembered than gratified with any Summ of Money. Therefore the Estate is very pitiful and inconsiderable, if so small a matter can derogate from the Testimony; or if it be ample and large, so small a Summ given in Legacy ought to be void of suspicion: Who is there that doth not send for the best Friend he hath when he makes his last Will and Testament? And what wonder is it, if out of respect to the Sacred Bond of Friendship, he that is sent for deserveth something wherewith to remember the Testator? I speak not for such a Witness to whom a great part of the Estate is given; for though his Conscience may be good, yet he gets his Wealth with little Modesty. But these Legacies (I speak of) were small Pledges left out of love, or else for shame (for the trouble to which he put them) given by the Testator. This Religious or Decent Course is not contradicted at all by new Laws; only, since the Memory of Man, one *Rationalis* (to whom the matter of Escheats did belong, as we have seen) hath appeared and adventured to introduce a new way of Judicature. Hence came the Appeal to be made, wherein he mentions another trick to cheat the Heirs; such ill Instruments will there be, even of the best Princes and justest Judges. But such was the Judgment of *Symmachus*, whose distinction betwixt a small Remembrance and a great part of the Estate left in a Legacy, is to be taken notice of. In the first case, it's trifling to dispute the matter; In the Second, some have been of Opinion to admit the Testimony in other Parts of the Will, wherein the Witness is not concerned.

36. But the Barbarous Nations at this time were still so troublesome as to infest several Countries in the East. *Philostorgius* wrote of two Armies of the *Huns* which about this time infested the Empire; whereof the one made an IncurSION into *Thrace*, and the other into *Armenia*, and others of the Eastern Provinces, as *Syria* and *Cilicia*. Besides them, in *Lybia* of *Pentapolis* and *Egypt*, a People called *Mazaces*; and another known by several Names, as *Ausuriani*, *Ausoriani*, *Austuriani* & *Saturiani* were tumultuous; so that the Inhabitants were forced to keep themselves within the Walls of their Cities, as they were commanded. Now, in times of Invasions and Irruptions, fenced places being the only Refuge of the poor Inhabitants; *Arcadius*, by his Edict directed to *Casarius*, gives him in charge, by his Letters, to admonish all Governors of Provinces; and let them know, that the Senates and People of all Cities must either build new Walls, or well and sufficiently repair those that were old and decayed. In the first place, he would have them consider how much Money would be necessary for these Works; that no more than needs, and no less than is convenient, be imposed upon the Provincials: Then, that an Indiction or Tax be made as is equitable, and according to the Lands and Possessions of the Inhabitants, by the number of Acres. As he thus provided for the safety of the Provinces; so to strengthen himself and improve his Estate, he thought fit at this time to publish an Act of Resumption, for recalling all these Lands which had formerly belonged to his Demain or *Res Privata*; declaring that no Prescription should avail the present Possessor of what could not by private Men be possessed; neither any new Pretence, nor yet any Rescript of former Princes should be sufficient to retain that which never ought to have been begged. To assert his own Authority by another Law, he declared shortly after, That a Libel or Petition presented to the Prince should be taken, and reputed for a Contestation of the Suit. But that an Heir could have no benefit thereby, nor any Action, if his Predecessor deceased, had no Cause of Action himself; so that though in case of a Sale there was Cause of rescinding of it, which could not be; except one half of the Worth was not bargained for: Yet if the deceased Person had neither contested the Suit himself, nor petitioned the Emperor (which had the force and effect of a Contestation) the Heir could have no Cause of Action, except it could be proved that the Sale was made out of fear, and by compulsion.

Sect. 1. It being a Rule received by Lawyers, that an Action cannot belong to the Heir, to which the deceased Person had no Title. • But this the Emperor asserts, that the Offering of a Petition to himself should have the effect of a Contestation of a Suit, which no Petition to any Subject could have; no, not to the *Præfectus Prætorio*, however said to be an Emperor without Purple. This tended to the preservation, indeed, of Temporary Suits, that there might be no need of beginning again, not those that were to be ended by long Præscription. But in order to the cutting off Delays in Causes, though any Man might renounce the benefit which the Law allows him, if he so pleaseth; and not take advantage of the fatal time, within which his Adversary was bound to prosecute his Suit, or Appeal: Yet, though both Parties consented, he would not have the Prosecution deferred above two Months; lest, as he saith, as often it happens, the Lives of Men be consumed and spun out in Contests.

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He commands
Prisoners to be
brought to
their Tryals.

37. The Instruments and Complices of *Rufinus* having now lain about eight Months in Prison, *Arcadius* was sensible of their condition as well as other Malefactors; how, many times such keeping is worse than death it self, and attributing this to the laziness of Judges, or a pride they had in being thought merciful and unwilling to call them to receive Sentence, commanded *Maximus* the *Præfectus Prætorio* to admonish them, not to defer their Tryals, but bring them to the Bar, and there determine of them according to Law. But, if he was moved with Commiseration toward the evil instruments of *Rufinus*, who assisted him in his covetous and cruel Enterprizes, much more was he concerned to repair, as much as in him lay, the Conditions of those whom that wretched Man had unjustly oppressed. We have seen how *Tatianus* and his Son *Proculus* fell as a Sacrifice to his Lust and Ambition: And not only they, but *Lycia*, their Country, as accessory, he procured also to be innodated with Infamy; of which this seems to have been the effect, that such as inhabited it lost their former Honours; to be sure were made incapable of attaining any for the time to come, and so, in a manner, ceased to be Roman Citizens: And besides this, the Province it self lost its Dignity and Preheminence which it formerly enjoyed amongst other Provinces of the Diocess of *Asia*; upon which Inconveniences this Evil followed, that any one might contumeliously handle and injure an Inhabitant, as by the supposed Crime of *Tatianus*, made altogether an infamous Person. But now *Arcadius* thinks fit to restore, as well *Tatianus* as *Lycia*, to their ancient Fame and Privileges. Him he terms Illustrious; calls *Rufinus* by the name of his Enemy, and *Teterrimus Fudex*; and, for as much as the Banishment was but temporary, or *Tatianus* was now dead, the Sentence was fulfilled; and therefore he declares the Countrey which he calls his most devoted Province, as free and entire as to Fame and Merit, as any other. He commands *Casarius* (the Successor of *Rufinus*, as he of *Tatianus*) to whom he gives the Title of *Excellens Eminentia Tua*, that by his Edicts he make it known to all Men, That none shall dare, for the time to come, to injure or wound, as he terms it, any Citizen of *Lycia* with any contumelious Name or Language.

He restores *Tatianus* and *Lycia* to their
ancient Fame
and Privileges.

The *civiles*
commanded
to reside.

38. The *Curiales* absented themselves so much from their Charges at this time, that *Arcadius* was so much concerned, as to command *Eutychianus*, who now, after a little time, became *Præfect* of the East, to threaten all within his District, that they should not forsake the Cities, and live in the Country, under pain of Confiscation of that Land or House they were so much in love with; terming them impious that forsake so, the place of their Original. At the later end of the Year he thought fit to put some respect upon Military Men that had deserved it. He gives way, that they who have discharged the Office of *Duces* be called upon to the Expence of the *Prætorship*; but excepts them, who for a long time have undergone the labour and danger of War, and such as have deserved to be present at the Secrets of his Consistory. And well such as had taken pains might be rewarded; for, at this time, amongst other Extravagancies of the Age, many were promoted to the Title of *Dux*, who understood little or nothing of the Employment; one thing that made way for the Ruin of the Empire. But, in reference to the Expence the *Prætors* were wont to make in Shows and Past-times, this Charge had been not long since sequestred from such Theatrical Delights, and been applied to *Theodosius* his *Aqueduct*. Yet now, part of this Expence *Arcadius* orders to be laid out in the Shews called *Ludi Scænici*, upon the Days of the Births and Inaugurations of himself and his Brother *Honorius*. About this time he thought fit to grant to all sorts of Persons the use of Stools, of sitting in Theatres, and frequenting the *Forum*, *Rostrum*, *Senate*, *Baths*, and such publick places, two sorts only

Military Men
encouraged.

L. un. de militi-
nibus ex C. 10. 1.
Ju. Cod. Tit. 1.
11. lit. 32. D.
3. Cal. Mart. 4.
est a Cod. Jul.

L. 18. de A-
stationibus C.
Th. Dat. 3. 3.
Aug.

L. 9. de re-
gentibus C.
num. Col. 7.
Dat. præd. 2.
Septem. Abj.
Cod. Just. 2.
temporaria C.
historica.

L. 2. Si civi-
religiosa C.
C. Cod. Tit.
12. lit. 18. 3.
un. Cod. Jul.
tit. Dat. 18. 4.
Jan.

L. 28. de Pra-
toribus Cod. Th.
Dat. 10. Cal.
Jan.

L. 29. 30.
tit.
L. un. de usi-
larum Col. 1.
lib. 15. lit. 1.
Dat. 8. Cal.
Abest a Cod.
Just.

1. The Use of
sols and fre-
quency pub-
k Meetings
ly denied to
yers and
anarii.

Governors of
provinces pub-
licd for not
sairing pub-
k Buildings.

arius requi-
s the Of-
of Prie-
tor in Af-
le

2. Cursus
Publicus for-
den to be
the use of
upon pub-
Service.

only excepted, viz. Common Players, who made People Sport for Gain; and such as kept the *Tabernæ*, or Victualling Houses. For, the first sort, they were always so contemned as infamous by the *Romans*, that they were ordinarily excluded from meeting with the rest of the People; and sometimes not permitted to be of any Tribe. As for *Tabernarii*, that sort of them was also esteemed amongst the most Vile and Base, which kept Bawdy Houses with their other Trade. All others, those excepted, might come any whether to make use of the *Sella*, or Folding Stool; which in those days was wont to be carried after the better Sort by their Servants, that they might rest themselves when they saw it convenient. All these Laws were enacted by *Arcadius* at *Constantinople*. There is but one of this Year which bears date from another place, and that is from *Regium*, distant twelve Miles from *Constantinople*; and it is the last in order of all the rest, yet hath no Date of any Day, though the Year be expressed. But the meaning of it could not but be remembred by the Governors of Provinces; against whom *Arcadius* was now so incensed, for letting the Publick Buildings in Cities fall to decay, That he enjoyns *Casarius*, that, what Palaces, Prætoriums of Judges, Publick Granaries, Stabula, or Houses for Cattell, were gone to Ruin since the first Consulship of his Father (seventeen Years ago) shall be repaired by those Governors now, and at their Cost and Charges; who, when they were Judges in the Provinces, ought to have been more heedful and diligent in this way.

39. *Honorius* made his Abode all this Year at *Milan*, as appears from his Acts of State; which, though not many in number, yet are diffused into several Months. He had Complaints brought him out of *Africa*, against one *Strator*; who exercising the Office of *Pæraquator* in that Country, it being his Work to regulate all Inequalities in the *Census*, or Impositions, had made some Orders which were very burthensome to his Tenants, who held the Lands called *Fundi Euphitchitici*; and had turned some out of their Possessions: Whom he commands to be restored, if they had Estates able to manage them; if not, he requires that the new Possessors pay all the Arrears which were behind by reason of *Strator* his favour towards them: That the Rents, by a new *Pæraquator*, be improved, if improveable; and that the Condition of the new Tenants be thoroughly examined, whether they be able to hold or not. As this *Strator* he will have turned out, so, the Good of the Provincials, their Ease and Quiet being so much concerned in this Office, he commands that no fit Person, who had been chosen to the Employment by the *Præfect*, be excused from the Duty; no, not by vertue of any Rescript obtained for that purpose; the Work being incumbent upon any honest and able Man, whom it was in the *Præfectus Prætorio* his power to chuse; to him the care of the Tributes belonging. And that such as are found either to be negligent in their Office, or partial in the Management of it, may not go unpunished, he further ordains, that some, whose Names had been presented unto him, both of these called *Pæraquatores*, and of the *Discusssores*, whose work it was to levy the Tributes when adjusted; if they shall be found therein faulty, first forfeit their Honour (for they were wont to be rewarded with the Dignity of *Comes* of the first Rank) then refund the fourfold of the Sallaries they had received from the Publick (for they were allowed also *Annona*, or Provisions) and make satisfaction of the fourfold proportion to such Provincials as they shall have injured or oppressed.

40. Being thus inclined to prevent and remove Oppressions, he was going to fall foul upon *Florentinus*, his *Præfect* of *Rome*, at this time. He had, the Year before published an Edict, prohibiting all Illustrious Persons whatsoever to make use of the *Cursus Publicus* for their own ease, except they were sent for up to, or sent down from Court; as that which tended much to the burthening of the Country, and hindrance of publick Business. But *Florentinus*, it seems, had forgot what was enjoyned, and made use of two *Veredi* for his own Occasions: Which, though not much in it self; yet, being of ill Example, and violating the Imperial Sanctions, he was so wise as to acknowledge and confess to the Emperor, who pardons him this Offence; but charges him that no such thing happen for the time to come. But this boldness was become too ordinary at this time both in the East and West; for *Arcadius*, towards the latter end of the Year, found reason too to curb the forwardness, in this matter, of *Simplicius*, a *Magister Militum*, in his District: To whom he declares, that such Licenses as are granted either by the Emperor himself, or the *Præfect*, shall suffice all Governors; and that he, for his part, must know, that by his Laws all liberty, either of granting them to himself or others, was denied. He adds, that Inferior Judges would be more fearful to offend in this kind,

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L. 35. de Offici-
bus pub. Cod. The-
Abst. a Cod.
Just.

L. 5. de Censura-
rib. Cod. The-
13. tit. 11. De
16. Cod. M. P.
Abst. a Cod.
Just.

L. 5. ejusd. tit.
Dat. 14. Cal.
Apr. Abst. a
Cod. Just.

L. 7. ejusd. tit.
Dat. 4. Cal. Apr.
5. L. 1. Cod.
Just. ad. tit.

L. 54. de Cursu
pub. Cod. The-
Abst. a Cod. Just.

L. 55. ejusd. tit.
Abst. a Cod.
Just.

L. 56. ejusd. tit.
Abst. a Cod.
Just.

Sect. 1. kind, when they should know that their Superiours were obedient; and if he " **A. D.**
 should offend again, his Offence should be grievously punished. " **395**
Honorius farther
 observing some inferiour persons by virtue of Umbratile or titular Honors ob-
 tained by Codicils, to be proud, and refuse those employments which the publick
 interest of the Common-wealth required they should discharge, declared to "
Florentinus, that though such as had obtained Patents for the Honorary Dignity "
 of *Exproctor*, or *Domesticus*, enjoyed that Dignity, they should for all that if *Curiales* be still bound to the *Curia*; if of Colleges or Companies, to the Cities; and "
 if Merchants, be obnoxious to the payment called *Lustralis Collatio*; neither be "
 free from any Service or Duty, whatsoever to which their Birth or Condition "
 made them liable, which he will also have observed as to their Children, provi- "
 ded that nothing of this extend to such as had obtain'd an honourable mission "
 from the said Employments of *Domesticus*, or *Proctor*, after that they had "
 served their full time, been wounded, or were hindred from continuing by want "
 of health.

Persons that
 had Titular
 Honours com-
 manded to do
 service.

He regulates
 the matter of
 publick Regi-
 strars.

He restrains
 Consultations.

Gives leave to
 exchange pro-
 visions for
 Money.

Sets the rate of
 Brass, which
 was to be fur-
 nished for
 Arms.

41. The business of Registers being so vigorously pressed at this time, or of
 recording Testaments, Donations and other matters daily incident, it became a
 question in *Spain*, what Solemnity was requisite to it, or who must be present at
 the making of these publick Acts. To satisfy them in this point, to prevent
 fraud, and to give greater authority to Truth, *Honorius* writes back his plea-
 sure to *Petronius*, the *Vicar* of that Diocess, that he will have present the Magi-
 strate of the place, the publick *Exceptor*, or Clerk of the Acts, and the *Prin-*
cipales, or prime *Decuriones*, five in number. By Magistrate must be under-
 stood the *Dumvir*, if it was a City or Town that had such, or the *Defensor plebis* "
 that belonged to the place, there always being a supply of *Exceptors*, not only in "
 the Courts of Provincial Magistrates, but in each *Curia* who wrote and registred "
 the Municipal Acts. " There was an error usually committed by Judges in those
 days, of too easily making relation to the Prince himself, of matters which occurred
 in their ordinary course of Judicature: and these Consultations indeed kept up the
 authority and repute of the Emperour, and sometimes in some difficult cases there
 was need of making Relation; the Prince having those Lawyers about him, whose
 work it was to cut the hair in such intricate debates. But the ordinary Judges
 were commonly affrighted with the noise of an Appeal, or had not presence of
 mind sufficient, but were diffident in their decisions, to the great damage of the
 Parties, by drawing out Suits to so extravagant lengths. Therefore *Honorius* "
 acquaints *Messala*, his *Præfect* of *Italy*, that in Civil Causes wherein, before "
 Appeal, there is no need of the Prince his Cognizance, all Allegations ha- "
 ving been admitted, and considered on both sides, the Controversies ought to be "
 determined, and not deferred by a Consultation. Forasmuch as it is not to be "
 suffered, that because the constancy of a weak Judge is shaken by the noise of "
 an Appeal, therefore the Party his expectation must be suspended by the tedious "
 ambiguity of a Consultation.

42. It grew towards the middle of Summer; and by this time *Honorius* might
 have some intelligence concerning *Entropius* his tampering with *Gildo* in *Africk*,
 and what followed thereupon. It concerned him to apply himself to Military
 cares, to see that he had men in readiness to defend himself, and that those men
 were well supplied with all Necessaries. His Brother *Arcadius* had this "
 year forbidden any money to be taken by Soldiers, but the *Species* them- "
 selves, under great penalty inflicted on the Governours of Provinces for conni- "
 ving at it. " He was not of this opinion, in reference to the circumstance of his
 District, it being made lawful by former Printes to make an exchange of other
 things, besides, that they called *Capitum*, for Money; but for fear the people should
 be oppressed, he prohibits any more to be exacted than what had once been de- "
 termined by a Constitution of *Valentinian* the Elder, what ever Letters they "
 might produce from the *Præfecti Prætorio*, or even the Prince himself, wherein "
 no let Rate was expressed. " But though other *Species* might corrupt with Age,
 and therefore the Soldiers might be put off with unwholsome Provision, yet that they
 termed *Capitum* (Hay or Straw) was not liable to such inconveniences; and there- "
 fore, as *Valentinian* before him, he allows the Provincials to pay it in kind, "
 yet not to be compelled to convey it to the Soldiers Quarters. " Besides, the Pro- "
 vincials being bound to find Brass amongst other Materials for furnishing out the
 Arms of the Soldiers, that there might be no rigorous exaction neither, in this
 kind, he settles the price of Brass, so as that twenty five pounds of it shall be va- "
 lued at one *Solidus*, which number of pounds *Justinian* in his time brought "
 down

L. 3. de
 nali. Cod. 6.
 7. Tit. 21. de
 a Cod. Just.

L. 151. de
 curion. Cod.
 Th. Dat. 30.
 Maii. de
 Cod. Just.

L. 155. de A.
 pellationib.
 Th. Lib. 11. c.
 30. Dat. 14. c.
 Jun. Abi. 2.
 Cod. Just. q. 4.
 tamen Tit. 10.
 nus omittit.
 debuit, si Col.
 fredo fide.

L. 21. de
 tione m. l.
 Annone de
 Th. Dat. 15. c.
 Maii. 1.

L. 22. ejusd.
 Dat. 3. c. 1. J.

L. 23. ejusd.
 c. 1. 8. Cod.
 Just. eod. tit.
 Dat. 16. c. 1.
 Jul.

Q. 1. down to just twenty, so much was Brass • risen then in the Market value."

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43. But from the Market of Metals it was very convenient that he should betake himself to the Market of Bread; for the state of the City of Rome did very much require it. There were, as hath been said, divers Lands which appertain- ed to the Body, or Company of *Bakers* there; and, that in divers Provinces, from the Revenues of which they received considerable Advantages. But by some means or other these Lands were fallen to little or nothing, and so little profit did they make of them, that they were forced to betake themselves to other shifts for a livelihood, which pressed sore upon the people, whose Bread they made. To

L.2. de Contari-
one Aris Cod.
Th. lib. 11. tit.
21. & l. 1. Cod.
Just. de collat.
aris Dat. 5. Cal.
Jun.

Fundi dotales
appellati.
L. 19. de Pisto-
rib Cod. Th.
Dat. 7. li. Jvi.

care for
oving the
of the
rs.

give some remedy to this Disease, *Honorius* orders *Eusebius* the *Praefectus Praeto-* rio of *Italy* to send some honest and industrious man to make an inspection into the state of those Lands, to see their value, and then to let them out in perpetual Right, or *Emphyteusis*, to fit Tenants, (as Grounds reduced to none or little va- lue were wont to be) under a certain Rent for the profit and encouragement of the said Company. This proved very seasonable and convenient, rather than

usurp-
n Africk.

made out of prospect of what shortly after happened. For about *November* fol- lowing, when Winter came on, *Gildo* having set up for himself in *Africk*, kept back that supply of Corn, which from ancient times was destined to *Rome* out of that Country; whereupon the City fell into grievous want of Provisions, now destitute of so certain a Granary as that had formerly been unto it. Upon the noise of the Dearth, *Honorius* first thought that the fault lay in the *Navicularii*, their abusing that Indulgence which had formerly been granted them by *Constan-* tine. He allowed them two years wherein by Acquittances they should prove the due receipt and delivery of so much Corn as they pretended to import, and this was because of the danger and trouble of Navigation in Winter. Now he concluded with himself that they made this advantage of it to keep the Corn, and sell it after such rates as they could get, having time enough to provide themselves of more against that term which was appointed them. The two

L.26. de Navi-
culariis Cod. Th.
& l. 2. Cod. Just.
cod. tit. Dat. to.
Cal. Jan.

is pro-
against
arth in

years he is still content to allow them for making good their faith, but he would have the Corn, or whatever other *Species*, delivered within one year, and an Acquittance taken for the delivery of it, though in two years the ac- count might be adjusted. This he thought would conduce to the bringing in of the Corn; but if it was given out to the people by little and little as it came, he concluded it would not go so far; and therefore by another Edict sent to *Florenti-* us the *Praefect* of the City, he commands, that none be distributed gratuitously, (this being the *Annona Civica*) till the whole Canon or quantity was imported; threatening his Officials with a Mulct of ten pounds of Gold, in case his Rule were not observed. Though as to *Florentius* himself, it appears sufficiently from a Letter of his Friend *Symmachus*, that he was much concerned for the supply of the City, finding the returns from *Africk* to be so small.

L.2. de conu-
tis in publicis
Horreis Cod. Th.
lib. 11. tit. 14.
Abest. a Cod.
Just. Liu. 4. ep.
54.

44. The Year CCCXCVII had *Fl. Casarius* and *Pontius Atticus* for Con- suls: *Casarius* and *Eutychianus* were for this year *Praefecti Pratorio* in the East, un- der *Arcadius*: under *Honorius*, *Theodorus* held the same Dignity in *Italy*, and *Vin-* centius in *Gaul*. *Arcadius* made his abode at *Constantinople* the former part of the

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year, where being solely ruled by *Entropius*, he had little to do, but assent to, and ratifie such Edicts as were brought to him by his *Questor*. That part of the Empire over which he presided for the most part, made use of the Greek Lan- guage, and though the *Latine* Tongue was the Native Speech of *Rome*, the Mi- streis of the World, yet in those remote *Thracian* and *Asian* Parts, many there were that did not understand it, and therefore when the Judges gave sentence in it, they often spake to the parties in an unknown Tongue. To remove this in-

& Pontio
Attico, Conf.

idius
es it law-
give sen-
e in Asia
the Greek
gue.

convenience *Arcadius* signifies to *Fulian* the *Proconsul* of *Asia*, That it should be free for Judges to pronounce their Sentences as well in the *Greek*, as in the *Latine* Language, though as yet, Pleas and Proceedings seem to have been still conti- nued in the same Tongue in which the Laws were written, as here they did in *England* till the time of *Edward* the Third, in *French*, to the great disorder of the Natives; but such is the power of Conquest both as to Laws and Language amongst other things; though now and then some Sentences even at *Rome* were given in *Greek*, where this Tongue was familiarly known. That *Entropius* should approve and consent to this License, there's no doubt at all: but another Law shortly followed, which we know not how it suited to his Genius and Designs, it seeming utterly to thwart that Trade which he so vigorously drove on at this time, of making Money of his Ends of every Dignity and Office of Worth about the Emperour. Whether he knew not of it, or, which is most probable, procured

L. 12. de Sen-
tentiis & in-
terloc. omnium
judicium Cod.
Just. lib. 7. tit.
45. Dat. 5. Id.
Jan. vide An-
not.

Sect .1.

A Law against
indirect seek-
ing after Ho-
nours.

or consented to it, to deceive the world, and curry favour with honest Men, but certain it is, that *Cæsius* the *Præfect* was enjoined, that if any Man was found ambitiously, or by Money and Bribes to aspire to any illustrious Dignity in the Palace, or to the Honours which were to be conferred by the Prince himself upon approved persons, such as he should think fit; of whatsoever Place, Order or Dignity such an one was, his Estate should forthwith be confiscated, and he further punished by banishment or Deportation; Neither was he to believe that this crime, though but endeavoured and begun, was less than if perfected, seeing that the Laws punish a crime, and the will or designing of the crime in equal sort. “

A.
39L. 1. ad L.
Julian de
bitu. Cod. Ti
9. tit. 26. 1Too frequent
during the
Common-
wealth.

45. This Crime there was need to suppress in all Ages, and first during the Commonwealth. Then did ambitious persons, when the State grew larger, especially after the *Italians* were made free of the City, and such numbers of Men of so manifold humours and inclinations came to have voices in the *Comitia*, throw about their Money, and by several ways of gratifying the Tribes, purchase those Employments which ought gratuitously to have been bestowed upon deserving Men. This was grown to such an height in the Age wherein *Pompey* and *Cæsar* lived, that few Magistrates were made otherwise, so that both of them made use of it, especially the latter, and this caused such contentions, tumults and fights in the Elections, that there was a necessity of altering the Government it self, as we have largely shewed in convenient place. Some Laws had been made for prevention of this mischief, as the *Julian*, and *Calpurnian*; whereof this inflicted a forfeiture of Honours, and removed from the Senate all that were convicted of it; but that only deprived them of the Senatorian and other Dignities for five years. As these Laws had little effect (as little as weak Medicines against turgent and violently fermented humours) so when the Power became translated upon a single Person, they became utterly forgotten, and out of use; this Disorder being often now as great as ever, though it ran not in so publick and noted a strain. For, as the People that had voices in the *Comitia*, were, during the Republick, to be bribed; so now those that were nearest about the Emperour, or that waited in his Chamber, who had most their Eare, were the Men to whom such persons betook themselves, and that with such success, that though good Princes endeavoured what they could to prevent it, yet they could not, but some times (not able to hear and see all themselves) be obnoxious to the insinuations of such as studied more their own private gain than any thing relating to the publick interest. Considering, that they could not give audience to every particular Man, nor know the Circumstances of each person themselves, there was a necessity of having matters related to them by those about them, and, as we have lately seen, this was allowed in practice, and a reasonable reward for soliciting in the behalf of such as could not propound their own desires. But they were still wont to exceed these Bounds, and for Sums or Lands given to procure Offices and Employments of the highest nature sometimes, even under the best Princes. *Constantine* by Laws endeavoured to suppress this practice to little purpose, which continued too much both under him, and his Sons. *Julian* struck at it with some success, if you believe *Mamertinus* his Panygyrist; but his Reign was short, and we know what would have happened, had he lived. Under *Valens* the evil was more suppressed in the East, but it had too much force again in the days of *Theodosius*, whose Son *Arcadius* fell into the hands of two such Villains, that if we credit *Claudian* the Poet, and the Historians of these times, all Provinces, and all things else were set to sale. But how this Law should come to be now enacted by this young Prince, who at this time was led, as *Zosimus* phraseth it, like a Sheep by *Eutropius*, is the wonder: we cannot think, with *Gothofred*, it enacted on purpose to obviate his practices, for he had all the power in his hands; but rather published to give some satisfaction, and to stop the mouths of Men. However, he will have the design punished, though it had no effect, as if Money were given, though the place not obtain'd; in like manner as the *Romans* were wont to censure designed Crimes, not only of Treason, but others; provided; they were made evident by some overt Act.

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As also in
those days.

46. But, as they that buy will sell; the under Officers of the Revenue in this general Mart, purchasing their places, made again their Markets out of the Purses of the poor Provincials. Such complaint there was now against the Exactors or Gatherers of the Tributes, that to remove the Clamour something must also be published against them. They were so bold as to require more than was due, whether in Money or the quantity of those Species they collected; a grievance

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viance *Constantine* formerly had indeavoured to remove, and so had *Valentinian* of whom *Ammianus* testifies that he was very prone and easy to give relief to the Provinces, in the matter of Tributes. *Arcadius* now found reason to confirm his Law made in this Point, declaring all Superexactions should be Capital, whereas formerly a Restitution of four-fold was thought sufficient by *Valens* in the like case; which afterward also in the room of Death, was reduced by some Emperors. This great male-Administration of Affairs could not but make very ill Blood in the Spectators, and especially those that were of *Senatorial* Rank, in which was contained the Body of the Nobility. *Eutropius* therefore now thinking fit, to the rapacious Skin of the Lyon, to show that of the Fox; knew it was convenient to please them of that order; and *Arcadius* accordingly was moved to show some favour to those that had served formerly in the Palace, and after their service finished, had the Dignity of Senators conferred on them, and according to a former Law he mentions, he accordingly excuses them from the burthens of the Prætorship or Celebrating of Games, incumbent on such as were called to that Office, though not from the Duty of the *Glebalis Collatio*. But these devices could do nothing to still that Tempest which was raised by degrees. *Arcadius* had been in the power of *Rufinus* first, and afterward because he knew not whom to trust, or what to do better, gave up himself into the Hands of *Eutropius*, and took for Law whatsoever they directed. He being thus successively governed as one that had no Soul himself, by these two Men, the Empire was wonderfully disturbed, not only by their treasonable practices for attainment of the Empire, but by their horrible Avarice and hoarding up of Wealth (intended as a means and way to it) their turning men out of their just Possessions, employing Promoters and Informers in every place, discarding all faithful and honest Officers, and promoting most abject and unfit Persons to Employment, even *Barbarians* as well as others, if they brought but Money, all which are evident from the account given by *Claudian*, *Zosimus* and others concerning these Men, and the disorders which abounded by their procurement. Of which *Synesius* in his Oration to *Arcadius* concerning Empire maketh mention, as forerunners of the ruine of the State, advising him to redress them. This deplored condition of the Empire caused grievous grudges, Heart-burnings and wonderful discontents in Men, who saw all Offices, both *Civil*, *Military* and *Palatine* bestowed on Wretches. And many complaints were made not only privately among the Vulgar, but by Bishops also, who openly complained, especially *John Chrysostome*, who fared much the worse for his liberal Speech. Moreover things grew now to that height, that, out of publick Odium, Factions, Associations or Conspiracies sprung up against *Eutropius* and his Creatures; at which he alarmed, by the Relation, it seems of *Eutychianus*, who had discovered the matter, resolved to secure himself in his extravagancy as much and long as possible, and those who had been preferred by his means. To this purpose he procured so severe a Law to be made at *Ancyra* in *Bithynia*, where *Arcadius* then lay, as the Subject considered, and all Circumstances, there is not the like to be found in all the *Roman* Monuments.

47. Whosoever shall enter into a wicked Faction with *Souldiers*, or *Private* Person (though *Barbarians*) or shall either initiate others, or be initiated in the Faction, or shall devise the death of Illustrious Persons, who are present at our Councils, and in our Consistory; or of *Senators* (they also are part of our Body) or in conclusion (*Cujuslibet qui nobis militat*) of any one that serveth us (for the Laws with the same severity punish a wicked Intention as the Act itself) let him himself as guilty of high Treason be put to Death, and his estate be Confiscated. As for his Sons to whom, out of our especial Imperial Lenity, we grant their Lives (for such ought to perish in their Fathers Punishment, in whom Examples of a Paternal, that is, of an hereditary Crime may be feared) let them be deprived of all Inheritance and succession descending from the Mothers or Grandfathers side, or that of their nearest Relations; let them receive no advantage from the Testaments of Strangers; let them be perpetual in want, and poor, and their Fathers Infamy always accompany them; let them never be promoted to Honours or Employment. Lastly let them be such as being sordid and base by reason of perpetual want, Death may be a comfort to them, and Life a Punishment. And we command that such be taken notice of and not forgiven, who shall ever attempt to Intercede with us in their behalf. For their Daughters, how many soever in number they be, we will that so much as the *Falcidian* Law allows of, only come to them, of their Mothers Estate,

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whether

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L. 1. de Superexactionibus. Cod. Th. lib. 11. tit. 7. Dat. ad Cesarium prid. Non. Mart.

L. 8. de Senatoris. Cod. Th. Dat. 3. Kal. Mart. A. D. 397. Cod. Jus.

L. ult. Ad legem Cornelianam de Sicariis Cod. Th. lib. 9. tit. 14. L. 5. Cod. Th. ad L. Julianam Majestatis. D. 47. prid. Nov. 5. p. 1. mb. Ancyra.

Sec. 1. whether she died Testate or Intestate, that they may receive the maintenance“
rather of an Ingrateful Daughter, than any real advantage and name of an“
Heire; For they ought to be more mildly Sentenced, who by reason of the“
Infirmity of their Sex, we believe will not be so daring. If Emancipation“
shall, after the making of this Law, be conferred either upon Sons or Daugh-“
ters, let it be of none effect. Portions to Daughters, Donations and all sorts of Ali-“
enations which shall appear by Fraud or according to Law, to have been made“
from that time wherein they had thoughts of entering into the said Faction and So-“
ciety, we pronounce to be of no force. Their Wives, their Dowes being recovered,“
if they have received any thing in way of Donation from their Husbands, on“
condition that it be reserved for their Sons, at such time as the Ususfructus is“
over, shall know that they shall leave all to our Exchequer, which by Law“
was due to their Sons; a part being assigned of this Estate, according to the“
Falcidian to the Daughters, but nothing at all unto the Sons. What we deter-“
mine concerning their Sons, shall with the same severity be inflicted upon their“
Partisans or Defenders; such as were conscious to their Crime, their Mini-“
sters and their Sons. Indced if any of them in the beginning, or when they“
enter into the Faction, stirred up by a desire of true Praise, shall discover the said“
Faction; he shall be both rewarded by, and receive Honour, from us. And he“
that shall proceed in the Faction, if though late, yet he will reveal their Councils“
that are not known, shall only be accounted worthy of Absolution and Pardon.“

Which after-
ward became
very famous.

48. This Law, though made upon this occasion, became in after times very famous. Forty Years after the making of it *Theodosius* the younger, thought fit to put it amongst other Constitutions of Christian Princes, of which his Code is Composed; and so did *Fustinian* in the Age following, Translate it into his; moreover in all Books written in the *East* concerning Law it's still mentioned. In the Western parts indeed for some Ages it was not known; as neither the better part of *Theodosius* his Code, nor any of that Body collected by *Fustinian*. But as soon as *Fustinians* Books were discovered here, this Constitution saw the Light, and got not only Interpreters but Imitators, and Transcribers both in the Palace and elsewhere, so that it began to be produced and fitted to many other Occasions. *Gratian* a Munk of *Bononia*, about the Year MCL compiling a Body of *Pontifical* Law in Imitation of *Fustinians* Books, (which first then came abroad in the *West*) Intituled by him *Concordia discordantium Canonum*, but now called *Gratians Decree*, and as some say was approved by Pope *Eugenius*, amongst many more constitutions of Princes, put this into it, and so Canonized it. And *Charles* the fourth Emperor inserted it in his Golden Bull, so much celebrated amongst the *Germans* about the Year MCCCLVI and applied it to the Electors' Ecclesiastical and Secular. Some Criticks carp at it as cruel, blaming *Fustinian* for Transcribing it; and others as earnestly defend it. No Law hath afforded occasion of more Controversies, Decisions, Reports and Councils, while Lawyers dispute to what Persons and Estates it's to be extended, in so much that not only Glosses but Books have been written upon it; and such as professedly write concerning Treason, have made it the foundation of their Discourses, though the original Occasion and historical Causes have been touched by few, and that very lightly, till *James Gothofred* made it a subject of an entire Discourse; the History of this time being very scant and nothing said of it by those few Writers that are still remaining.

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49. However, the Subject of it, is the Contrivance of the Death of such Persons as were next to the Prince in Government or Dignity, and that by entering into a Faction or Association, which *Arcadius* by his Legislative Power maketh Treason. The design of it is to prevent Murther, and this designed Murther is declared Treason, upon which double account it is inserted into several Codes, under several Titles; as in that of *Theodosius* under the Title of Murther, and joyned to the *Cornelian Law de Sicariis*; into the other of *Fustinian*, under that of Treason, and joyned to the *Lex Julia Majestatis*, several other Constitutions being thus inserted into several Books, under divers Titles, for the like reason. Now there are four sorts of Treasons; *Crimina lese Majestatis*. The first is, when any beareth an hostile Mind against his Prince or Country, as to overturn the State, disturbe either in whole or in part the publique Peace, quiet and security, by exciting foreign Powers against the Common-wealth, or indeavouring their relief in any kind, when in a State of Hostility. This is the highest Treason, called in Latine *Perduellio*, whereof in the highest manner they are guilty, who contrive the Death of the Prince whose Person ought to be Sa-

How many
sorts of Treas-
ons.

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Securis
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cred; or the depriving him of his Crown and Empire. The second sort is the *Crimen laesa venerationis*, when Reverence due to the Prince, and necessary for preserving Government and good Order, is violated by any naughty Fact or word, as by opprobrious Language, breaking his Statues or abusing his Pictures: The third kind is when the publique Power or Authority is violated, as by resisting, abusing or striking a Judge or Magistrate who is doing the business of the Prince, is in the just exercise of his Power; or by arrogating to ones self something belonging to Majesty, as Coyning of Money and the like; as the defacing of Coyne, is doing Violence to the Sovereignty. The fourth is, when any other Crime, by reason of its greatness, or ill effects, is, though it be not so in its own Nature, declared to be Treason or made such, as several things with us have been made Felony and Treason, as the holding of such and such Tenents in Religion in the Reign of *Henry* the Eighth. This Treason is precarious, in Latin *Majestas Precaria, Fictitia, Exemplaris*, and *Quasi Perduellio*. And such is by this Law, made by *Arcadius*, the contrivance of the Death of such as were about him, to whom he doth as it were Communicate his Majesty, as Wives are said to be irradiated by the Beams of the Dignities and Honours of their Husbands.

50. The Persons by and with whom these Factions were made, were either Souldiers or private Men. By Private in this Age, were meant not only such as were by this word, distinguished from the Prince, and from Magistrates and Dignified Persons, but such as were not in military Employment, being otherwise also in Latin called *Pagani* and in Greek *Idiotæ*. Both these sorts were either Natural Inhabitants or Barbarians, by which are to be understood not such as were called out of Barbarous Countries, for carrying on some Plot or Design, but such as indeed had filled the Empire since the time of *Valens*, who gave to the *Goths* Ground to Inhabit in *Thrace* and other Countries; the main cause of all the Calamities wherewith the Empire was at length oppressed. Under *Theodosius*, when *Athanasius* was dead, his Souldiers also submitted to the Roman Empire, and were made one Body with the Roman Militia, as several writers testify; so that Barbarous Souldiers lay at *Constantinople*, and the *Goths* were placed particularly in *Phrygia*: Nay, now they might either be Souldiers or live privately; they bore, as we have seen, Offices of Magistracy, and were promoted to Dignities, *Illustrious, Senatorian, Palatine* and *Provincial*. The Persons whom *Arcadius*, by denouncing the Pains and Penalties of Treason, labours to protect, are also of three sorts; *Illustrious Consistorians, Senators*, and such as did *Militare Principi*, or serve the Emperor. By *Illustrious Consistorians* who are meant, sufficiently appears by what we have formerly said of these great Persons, as also by *Senators*, who were in highest esteem, during the Reign of the Author of this Law; but whom we are to understand by *Militantes* is more obscure. Not certainly those that served in the Army, or every Souldier as the *Greeks* grossly interpret it, as if *Arcadius* had by this Constitution made the Person of every ordinary and common Knap-sack-carrier, *Sacro-sanct*. Neither can it be only those of the Emperors Guard, or those that watched about his Body, as the *Domesticks* and *Protectors*, as others have mistaken, though they indeed may more properly be said *Militare Principi*, and *intra Palatium Militare*, whom, for their care of his Person, *Arcadius*, in one of his Constitutions, calleth *Denotissimi Militare*, as is most evident to all that know any things of the Laws or Monuments of these Ages, signifies to serve the Emperor in his Palace, though not by the Sword, as well as in the Field; and the *Palatine* Officers are called *Militia* as we have seen sufficiently in the *Polity* of the Empire.

51. For as much then as it cannot be imagined that every common fellow of the Guard, or of the keepers of the Body, whereof there were many, should be so valuable, as to have a Ray of Majesty Communicated to him, and be made *Sacro-sanct*, we cannot but be of *Gothofred's* opinion, that such are by this Law to be understood as Exercised *Palatine* Dignities, as the *Comes Domesticorum*, the *Castrensis Sacri Palatii*, the *Primicerius Notariorum*, the *Magistri Scriniorum*, the *Comites*, and *Tribuni Scholarum*, the *Tribunus* or *Comes Sacri Stabuli*, and others. For, these, in a peculiar manner and by way of Excellency were said *Militare Principi*, who in consideration of Place and Dignity were joyned with Senators, as by the Laws any may perceive, with whom it is absurd to imagine that ordinary *Soldiers*, common *Satellites*, or ordinary *Domesticks* or *Protectors* should be joyned, and partake with them in so vast a privilege, as also to think, that so great a Faction and Conspiracy should be raised against such inconsiderable Men, and this made such a crime, that all that were but ministerial and conscious to it, must be so se-

Sect. 1.

verely punished. But, not only these great Court-Officers are here to be understood, but Provincial too, both Civil and Military, who are all said *Militare Principi*, being all girt with a Girdle; which Custom extending of old to others as well as Soldiers, is now beyond the Seas as ordinary amongst Lawyers and Physicians, who use the Caslock and Girdle in their Employments in Courts of Justice, and when bearing any Office in the Schools, as well as Divines. This was agreeable to the *Julian Law* (to which this Constitution is added) which made it Treason to compass the death of any *Roman Magistrate*, or such as had Command and Power. These being generally the Creatures of *Entropius*, or to whom he was obnoxious for receiving their Money, were thus secured by the Severities of this Constitution; which, we may easily enough conclude, was extorted from *Arcadius*, to protect the Power of the Eunuch and his Dependants, and hide the Crimes of these Officers he had preferred.

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52. However, this took something off from the Solemnity and Desecration of the Law, that it was but part of a larger Constitution directed to *Eutychianus*, the *Praefectus Pratorio*; who had made Relation to the Emperor of what Miscarriages he found in the Provinces. The foregoing Year *Arcadius* had thought fit to prohibit the collecting of what was due from Senators in the Country; or the *Glebalis Collatio*, by the *Curiales*; lest they should oppress or offer Injury to Persons of that Order, which at this time they were prone to do: And appointed the *Apparitors* of the Governors of the Provinces to the Employment; requiring those who were the *Defensores* of the Senate to see this done accordingly; and that if the *Curia* of the City or Town thought fit to have a *Censitor* or *Persequator* sent down, he should have nothing to do, or intermeddle in the matters belonging to Senators. This was put in practice by *Casarius*; but such was the success, that now *Eutychianus* his Successor made known unto *Arcadius*, that the *Officials*, or *Apparitors* were so improper for the Work of Collecting, that in some Provinces one half of the Tribute was behind, or never called for. This could not be endured, that so considerable a part of the Revenue should fail; and therefore *Arcadius*, by this Rescript, commands, that the Collection be restored into the hands of the *Curiales*; but that, what he had declared the Year before concerning Senators, should also be observed. This was to prevent all Commixion of the Concerns of Senators and *Curiales*, lest the Senatorian Dignity should grow vile and contemptible; for the *Curiales* being most commonly conceited, and ill bred, fancied themselves almost as good Men as the other, they being a sort of Senators of Cities and Corporations, and their Courts an Image or Resemblance of the Senate itself. Hereof the *Defensores Senatus* were to take care; a strange sort of Officers. Because the miserable *Plebs*, or Common Sort, stood in need of their Defensor to protect them from the Insolencies and Injuries of the rich *Curiales*, Must the great and mighty Senate at this time stand in need of its Defensors too? But so the Case required; all sorts of People being ready to devour one another, and the *Curiales* being too bold and saucy in the Management of these Collections; which, yet it was necessary, should still continue in their hands. But, considering that this Law and the late famous one of Treason made up one Constitution, we may gather, that the Senators themselves lay under such prejudices, that they stood in need of *Defensors*: And *Arcadius* provided both for their Dignity and Security, as well such as lived in the Provinces, as in the City.

L. 2, 3. de Pr
dits Senator.
um Cod. Tit. 6.
tit. 3.L. 4. Senatus
tit. Dat. per
Non. Septim.
Ancyre tota
quo Lex san
de qua nati
gimus.

53. Toward the latter end of the Year we meet with another Edict of *Arcadius*, to this same *Praefect Eutychianus*; which, at the first Entrance upon it, one would imagine to have been sent to mitigate the Rigour of that severe Law of Treason; but that the Conclusion, as well as the Title, under which it is set, frustrate utterly such Expectation. But, though *Entropius* would not be so plausible to take off any Prosecution of such as might conspire against him and his Accomplices, yet upon Complaint of how many were accused of other Crimes, and their Estates thereupon confiscated and seized by him, he might think fit to put some stop to the Clamour, by procuring a little Restraint to the extravagant Prosecutions in that kind. Former Emperors had imposed the pain of burning alive upon such Slaves as accused their Masters of any Crime, except it was Treason: He now changes it from Fire, to the Sword; but commands, that before the Production or Examination of Witnesses, at the beginning of the Accusation, they be put to death; and not only Slaves, but others he calls *Familiares*; by which are not to be supposed such as in general Terms we call Familiar Friends, as if one Master of a Family might not accuse another without this Punishment, but those of the Person's Family; as one born in his House, or his Clients and Dependants. What-

L. 3. Ne prae
crimen Maiest
tis. Cod. Tit. 9.
tit. 5. De
Id. Nov. Const.
Et L. penult. l.
Just. qui de
sare non poss.A Law against
Slaves accus-
ing their Ma-
sters.

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Sect. 1.

Another a-
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ing in the
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with a madness of Building ; though the place was already bigger than either was consistent with Health or Accommodations, yet must they fill the *Campus Martius* with Huts and Booths, if they could not be permitted to raise greater Structures. This large Plat of Ground, which lay betwixt the City and the *Tiber*, of which they could not but have received from their Ancestors by Tradition as well as Writings, how famous it had been upon many Accounts, did they now choak up with Tipling Houses ; as we may presume, being vitious and luxurious, but abject and mean ; addicted to Pleasures, but strangers to the generous Exercises and Diversifements of their Forefathers. Besides that, the old *Lustrum* was kept in this place ; the *Comitia* also, or Assemblies of the People : It was the School, the *Gymnasium* or *Palestra* of all sorts of Exercises of Arms or Sports ; and served the people for walking, and taking of the Air. Some Emperors, upon this account, would not suffer any Buildings to be erected upon it, though *Trajan* built a Theatre and a Porticus ; the former of which was demolished by *Adrian*. Now, *Honorius* prohibits any Huts or Booths to be there erected, under the same Penalty of Confiscation, and perpetual Exile, as was inflicted by the former Law, though with as little effect, as we shall see hereafter : “ For this humour of building there, so long continued, till the City her self, for Novelty, slid down from her seven Hills, and here reposed her self, as more at ease. But both these Laws were published at Rome, in the Forum of *Trajan* ; that Forum so much frequented, and where Edicts concerning the People were wont to be fixed so as to be seen by all : that most August Structure, concerning the Magnificence of which, the Reader may remember what *Ammianus Marcellinus* writes, upon occasion of *Constantius* his viewing of it.

56. But there were so many *Barbarians* now adays in Rome, so many idle Persons haunting Booths, Victualling Houses, and places of worse Character ; that the great Dearth considered, there was just fear lest the Discontent of the Citizens by these turbulent Men, might be blown into some outrageous Acts of Sedition and Mutiny. It was therefore resolved, not only to prohibit the Barbarous Habits, thereby to take off opportunity of their knowing one another, and to prevent their Meetings by forbidding Booths and Huts ; but also, To command all *Agentes in Rebus*, who, as we have seen, were wont to be violent and unruly ; all *Palatine Officials*, or those belonging to the two great Treasurers, that were well skilled in collecting of Arrears, in raising Calumnies, and in Rapines ; as also, others of more inferiour note, if they had no Business or Employment, to quit the City, under pain of Deportation. “ It was the custom, as we have seen, both from *Theophrastus* and *Ammianus*, in time of Scarcity to send idle and useless persons out of the City ; that there might be better Supply for such as had most Right and Necessity there to continue. When this was done, none certainly could better be spared than the *Gladiators* ; whose Employment it was, by cutting and killing of one another, to give Tragical Diversifements to the Spectators on bloody Theatres. It seems, also, that they were commanded to be gone as well as others : And thereupon, as some shifted and lurked about in the Booths and Huts in the *Campus Martius*, they betook themselves to the Services of Senators, and there thought to find shelter and protection. For by another part of this Edict, though made a Law by it self, *Honorius* gives express charge, that if any such shall be found out to have so done, they be sent away, and banished into the utmost Deserts. “ To be sure, these Hacksters were, of all others, most bold and daring, and the fittest Instruments for any Tumult. They who value not their own, are ever the Masters of the Lives of others. If *Honorius* would not have them in the Services of Noble Men, where they might have some Employment, it is not probable he would have them in the City, in their *Ludus*, or Fencing School, under their Master or *Lanista* ; who could have the less Authority and Command over them. So that we cannot but be of the contrary opinion to *Gothofred* in this matter, and believe them expelled the City by his express Command.

57. But still *Honorius*, or they about him, stood in dread of the Consequents of that Influence which the Rebellion of *Gildo* might have upon these multitudes of people now in distress, and living in that vast City. The surest way was to bring in, sufficient Provisions ; but that could not be without Assistance from Sea : *Italy* could do nothing toward filling so many mouths. He directed a large Edict to the People and Senate, for quieting of their minds, and continuing good Orders amongst them ; wherein, in the first place, as not knowing what to do better, he again runs upon the *Navicularii* ; as being, by reason of their Employment, fittest to bear the burthen and the blame too. What Corn they brought in was in such little

A. I
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Martius
Rom. c.
lib. 14. l.
P. P. Re
fere Tit.L. un. d.
Martius
ad un.
licet
Cod. The.
tit. 1. l. 1.
Cod. J. l.
rum l. un.
propria.L. 3. d.
toribus,
lib. 15. l.
Abest c.
Cod. J. l.
tempora.

little Quantities and great Intervals, that little good still came of it ; and therefore he requires, That the third part of the whole Quantity be imported as soon as the Seas are open, or in the Months of *March* and *April*; and then betakes himself to the old and usual Course of commanding of the *Præfect* of *Italy* to see the Fleet reinforced, by constraining all whatsoever, who, by any way or means, held Lands obnoxious to the Function, to do their Duties. But though never so much Corn was brought out of *Africk*, or other places ; if it was sold and parcelled away e'er it came at *Rome* or in the Granaries, the End and Design of it was frustrated ; and yet such was the practice at this time, to sell it upon the Shores or Coasts as it came along, and thereof *Honorius* was informed ; who inflicts the Punishment of Death both upon Seller and Buyer, besides the nulling of the Contract so made to defraud the Publick. Furthermore, when they had so diminished the Stores, they were wont to pretend several things ; As that the Corn was putrified, and they were forced to cast it Over-board ; that it was dried and shrunk below the quantity of an hundredth part, they were allowed upon that Consideration ; that it was stolen, washed away by the Sea ; or, in conclusion, that they had suffered Shipwreck : All which Pretences he will have examined strictly by the *Præfectus Annone* and the *Vicar* of the City ; that if, indeed, such adverse Fortune happened, Allowance may be made, or else their delay and negligence be punished if these misfortunes came by their fault. But if all the whole *Canon* (as they call it) or quantity was brought in ; if the *Susceptors* or Receivers of it, and the Overseers of the Granaries played the Knaves, all former labour would be lost. To prevent which, he further requires, that these Officers every Year give an Account to the said *Vicar* and *Præfect*, of all such quantities as they have delivered out, and prove manifestly the Delivery before them. If they appeared honest he will have them continue in their Employment five Years (whereas, one was the ordinary term of a *Susceptor*) and in case of want, supply to be made out of the Body of the *Curiales*.

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supply of
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cessaries.

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L. 27. de Navi-
culariis, Cod. Th.
lib. 13. tit. 5.
Dist. 17. Col.
Mait.

L. 2. Quæ res co-
niti non possant,
Cod. Just. lib. 4.
tit. 40.

L. 5. de Vi fr-
gitiis, Cod. Th. lib.
13. tit. 9.

L. 23. de sus-
ceptoribus Cod. Th.

58. Good reason we see *Honorius* hath, to tell the Fathers, as he doth in the beginning of his Oration, that they are certain how great care he takes for the Commodity of them and of the People. But this he further shows and assures them of, by ordaining, that, In case any Tribute of Corn or Oyl, usually due and payable, was remitted or pardoned to any by any Immunity granted by Rescript of the Emperor ; such Rescript and Immunity shall be utterly void. And in case a Ship was constrained to put in any where upon the Coast of *Africk*, yet the Lading thereof shall not be carried to any other place ; but transmitted to the Sacred City alone. Thus, by the Commodity which *Honorius* endeavoured to procure for Senate and People, we see the main Chance was provided for, as much as in him lay ; or Necessaries for the maintenance of their Lives. But he proceeded farther, to take care for their diversion also, by Pleasures, Delights and Pastimes ; to make their Condition, if it did at all, to pinch the less. We find in this part of his Oration, he not only makes mention of Corn (the quantity whereof imported every Year was two hundred thousand *Modii* ; and great need there was of it, because, what formerly came to *Rome* out of *Egypt*, was now sent to *Constantinople*) but also Oyl ; of which, moreover, there was a quantity brought yearly out of *Africk*. This was for Luxury ; not to eat, but to make use of, in their *Gymnasiaz*, and their Baths, as they had learned from the *Greeks*. Such as had a mind to please the People, sometimes gratified them with a Present of this Oyl ; as *Scipio*, *Cæsar*, and others of the Emperors ; by whom it was brought at length to be part of the yearly *Canon* or Allowance to the City. But he proceeded still further in his design of pleasing Senate and People. Those that were wont to raise the Tribute of Senators, or *Glebalis Collatio*, were the *Censuales* ; whom, though he now excuseth from so doing, as a work too burthen some ; yet he will have them to discuss the matters thereto belonging : And having found out the true state of Collection, how much, and wherefore it was to be payed ; then to make Breves, and therein report what they found. Now, the *Censuales* being Officers relating to the Senate it self, this could not but please the Members of it, that they should be the Men that must make an Inspection into their Estates. What is behind of this Edict tends more to the pleasure and satisfaction of the People.

certum habuit
Patris consue-
pti quantam
curiam imper-
dimus pro ve-
tris ac populæ
communitis. Ide-
oque hac lege
sanctum est, &c.
L. 3. d. Canone
juramentis ar-
bis Romæ. Cod.
Th. lib. 14. tit.
15.

L. 6. de Sena-
toribus, Cod. Th.

I things of
light.

50. Nothing could please the People better after their Bellies were fully provided for, than to behold the *Circensian* Games. These were celebrated at the Charge of the *Prætors* ; who finding them so great a burthen, as we have mentioned, made several means to evade the Office : and now, amongst others, when they were to be designed to some certain sort of *Prætorship*, a little before, they alienated their Estates ;

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states, that the lesser burthen may be imposed upon them. Such Alienations the Emperor declares shall be void, except the Cause was first approved, and the Contract entred in the Register of the Governor of the Province. And whereas some were so bold as to seek after, and procure the Rescript of the Emperor, for their excuse of the *Prætorship*; He also declares all such Rescripts obtained, to be of no Force. The times grew now to such hardship, or Men to such uneasiness in their Conditions, that none would keep their Stations; but were weary of those places and ways, wherein they were fixed by their Quality and their Originals. Whether it was, that the scarcity which was at *Rome* pinched also the Inhabitants of *Campania*, or it was an Omen of that Ruin and Desolation which shortly after followed all over the West; But Towns now began to be deserted, even by Artificers; those they called *Collegiati*, who were Companies that served the Publick, and for that, received Privileges; who, together with the *Curiales*, made up the whole Corporation. This drew from the Emperor an Order to *Gracchus*, the *Consularis* of *Campania*; Wherein he requires, that all Judges use their endeavours to bring them back, and all they have; that their bodies may not be in one place, and their minds in another. As for their Sons, if they were born of free Women, they ought to follow the condition of their Fathers, and be liable to such Services as they were: But if they had them by *Ancille*, or Slaves, they were to follow, and be reckoned of the same state and condition with, their Mothers.

Artificers forced back to the places of their Original.

Honorius subjects his own Domain to the finding of Soldiers.

Senators permitted to pay Money in lieu of them.

Curiales forced back from the Camp.

60. These things tended to quiet the minds of the people; but it was another matter to reduce *Gildo*, and prevent any further Attempts he might make upon *Italy*, or other places. For this also *Honorius* made so vigorous Preparations, that he called the *Juniores* into the Field; and commanded *Sperethius*, his *Comes Rei Privata*, that his own Patrimony or Domain should not herein be spared, though usually it was; but that in all Provinces it should also furnish them out, and that with all convenient speed. This, that it might better be able to perform, he commands him farther; That none of that Gold or Silver which belonged to it, shall be drawn off, and applyed to other uses, as he found it had been practised, without his leave for so doing; that he may have a fuller and clearer Account of it. If the Emperor's own Lands were subjected to this burthen in this case of necessity, it was not fit that those of the Senators should escape, but be made also to set out Soldiers; the finding of which, as *Furetus* observes, was sometimes put upon Patrimonies themselves, or made the burthen of the Soil; and sometimes imposed upon Tenants or present Possessors. We find that *Honorius*, by some Edict, required this Duty now from the Estates of Senators; and that hereupon the Senate dispatched away their *Legati*, or Messengers, to him, to pray that they might be discharged of the trouble, and pay Money in lieu of the Men. And they returned with their business done, as *Symmachus*, in his Epistle, tells the Sons of *Nischomachus*; for, both the Indiction of the *Tirones* ceased, and they were permitted to pay Silver in the Room of them. But, concerning these matters, saith he, we hope we shall receive an Oration or Writing from the Emperor. No such Oration we find, but an Edict directed to *Theodorus*, the *Præfectus Prætorio*; wherein he tells him, That he had granted the Petition of the most ample Order, that Money might be payed instead of Soldiers; and they might have their choice whether they would furnish out Men fit for Service, or for every one, pay in Money twenty five *Solidi*, besides for their finding with Meat and Cloaths. But if they had rather pay Gold, they should send it presently into the Exchequer. By this we find that *Tirones*, or new Soldiers were now at a lesser Rate than formerly, viz. twenty five *Solidi*, or five pounds of Silver; but that was because Slaves were admitted into the Service. But this Favour granted to the Senate, *Honorius* thought fit to signify, also, to *Minervius* at the latter end of the Year, his *Comes Res Privata*; to whom he gives order, that his own Possessions, held in perpetual Right, shall contribute toward the finding of Soldiers in the same manner.

61. This disadvantage in the Civil State, still followed Military Preparations; that when an Army was to be raised, the *Curiales*, and Countrymen, and other Officers, that were weary of their Employments, would forsake their Stations, and take shelter in a Profession of Arms. To avoid this Extreme on the other hand, the Emperour gave directions to *Florentinus*, the *Præfect* of the City, that even such Soldiers as had obtained to be *Comites* of the first Rank should be forced back to their Corporations, if they had obtain'd the Dignity by Codocils, or for Reward, and had not passed through the several Employments of the Camp; but if they had been in long service, he permits them to be free, or in case they had ob-

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L. 7. de Sen-
ribus, Cod.
L. 31. de Pr.
ribus, Cod.

L. 1. de Coll.
tis, Cod. Ti.
14. tit. 7. De
Cal. Jun. A
a Cod. Jus

L. 12. de 7
bus, Cod. 7
est a Cod.

L. 14. de 7
Fijet, Cod.

Ep. 62. lib.
vide Jus.
in locum.

L. 13. de Te-
ribus, Cod.

L. 14. de Te-
bus, Cod. Tit.
pud. L. Nov.

L. 2. de Com-
bus Rei mil-
ris, Cod. Th
6. tit. 14. De
12. Cal. Jus.
Abst a Cod
Jus.

rain'd both the first and second degrees of *Comites*. The same thing he enjoyns concerning the *Apparitors* of Judges, even of the *Præfects*, whether they had betaken themselves to the *Militia Palatina*, or *Militaris*, as he distinguisheth; commanding that they be sent back again to the meanest Employments wherein they had served; and that if they escaped, their Sons should be forced to the several Charges of their Fathers. As for *Curiales*, though formerly he had granted them leave to enjoy the honours of *Exproctores*, or *Domesticks*, provided their Duties in the Corporation were supplied; now considering of it better, as he saith, He declares all such Titular Names null, and void; so that they shall neither be excused from sordid Services, nor from the *Plumbate*, if occasion require it. And what he saith here concerning such Honours obtained by them, he extends it to all members of Companies, and *Centuriones*. Moreover, as the *Apparitors*, so all *Curiales* he will have recalled from both the *Militia Palatina* and *Ar-*

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L. 19. de decur
sio Officiorum Cod.
7b.L. 1. 152. 154.
155. 156. de
Decurionib. Cod.
7b.deprived
rain Ho-:pt such as
discharg-
d Duties.

62. But, as for those who from *Curiales* had arrived at the Senatorian Dignity, if they had discharged and run through all their Charges in the *Curia*, he permits them to enjoy their Honour and their ease; but such Sons as they had before they came to be Senators, he will not have excused from being obnoxious to the ordinary and first conditions of their Fathers; except their Fathers were illustrious persons, then he declares them exempt; If, as he expresseth himself, by a degenerate lazyness and drowsyness they do not shake off their Fathers virtue. So far are such from being noble, though puffed up with a conceit of their Nobility. But as for them that were Senators, and had not yet run through all the Charges of the *Curia*, he gives them leave to perform, what was behind, by their Duties. Such was the Distemper of this time, as we may see by the Remedies, and very Complicate, wherein a Medicine that seemed to cure one Symptom, would exasperate another. But so *Honorius*, or they about him, dealt with as wary an Hand as he could; and foreseeing now how the Military Officers might take too much upon them, and determine matters that belonged not to their Cognizance; when they were puffed up with a fancy of what need there was of them, he commands in an Edict directed to *Vincentius*, *Præfect* of *Gall*, that in a criminal cause, the accuser follow the Court of the accused Party; that none go out of his own Court without leave from the Prince, under pain of the Plaintiff losing his cause, and the Defendant being condemned, whether it was in a Civil or Criminal Matter: under the same penalty he enjoyns that none commit execution to Military Men; and inflicts death on such Tribunes and Vicars as shall execute any thing in a Military or prohibited way. After this manner was this Year passed over.

L. 1. 3. de
dictione Cod.
7a. 7b. 3. tit.
13.

63. The next following, or the CCCXCVIII of our Lord, had for Consuls *Honorius Augustus*, the fourth time, and *Eutychianus*: *Theodorus* was *Præfectus Prætorio* of *Italy*: *Vincentius* still of *Gall*; *Eutychianus* of the *East*, and *Anatolius* of *Illyricum*. *Arcadius* was this Year, or for the most part, resident at *Constantinople*; and *Honorius* at *Milan*, where he took the Ensigns of the Consulship. By this time the great enmity betwixt *Stilicho* and *Entropius* was broken forth into publick and notorious Acts, and in the mouth of every man; yet, though they burned with implacable malice against each other, did both of them with all licentiousness, insult over the miseries of such as were subject to their power: *Stilicho* having fixed himself, as he concluded, by marrying his Daughter *Mary* to *Honorius*; and *Entropius* leading and governing *Arcadius* no otherwise than like some silly Sheep. To be sure, if there were any noble or pleasant Seat in any Country, it was made over, to one of them two; or if any Gold or Silver, it flew from the right owners into their Coffers, there being a great number of Informers employed, who had in charge to calumniate ever, such kind of Men. Affairs both in East and West standing in this posture, all Persons of Senatorian Rank bore it most heavily; especially *Gaines*, who was impatient that he had obtain'd no Honour befitting a Captain that was now in age; that he could not satisfy the Man's mind with any thing he yet could present him; he was enraged to find that all Money ran in a stream to the House of *Entropius*: he communicated his thoughts to *Tribigild*, a man very stout, and prompt for any bold undertaking; who, by the Emperour's order, commanded some Troops of Horse of the Barbarians, that quartered in *Phrygia*. Being agreed of their proceeding, he pretended he would go into *Phrygia* to visit, and make inspection into the condition of his Men, and so parted from *Constantinople*; and leading the Troops he commanded, laid waste all the Country where he came, killing the Men, Women and Children, and plundering all

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Honorio
Augusto C-
Eutychiano
Coss.

Zosimus p. 789.

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es *Tribigild*
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Sect. 1.

Aradius leaves the matter to *Eutropius*.

Who makes
Carmes and Leo
Generals.

For all them
Trilogist
wastes the Pro-
VINCES.

Grimes under
hand artists
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Triflingly im-
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marching into
Paradise, is
opposed by
one **Edgar**.

Tooth all! is
 'M. except
 the hundred
 to the struts.

he could light on, by which means he got together so great a company of rascally and inconsiderable People, that destruction seemed to threaten all *Asia*: *Lydia* was all full of tumults, and most of the Inhabitants betook themselves to Maritime places whence they passed over into the Islands or other parts. When this was told the Emperour, he had no sense of the publick calamity, neither could he tell what course to take, being an extremely dull Man, but referred the whole management of Affairs to *Entropius*.

64. He made choice of *Gaines* and *Leo* for Captains to reduce *Tribigild* into order. *Leo* he would have go into *Asia* to disperle these Companies of *Barbarians* which were met confusedly together; and *Gaines* march through *Thrace*, and the Straits of the *Hellspont* to curb the insolence of the Enemy, if he should adventure into those Quarters. As for *Leo*, he had not the least skill in the Office of a General, nor had any other qualification to warrant his Rise to such preferment, but only his familiarity with *Eutropius*, being as *Claudian* sets him out, a Dresser of Wool. But according as they had instructions, both marched away; and *Gaines* now calling to mind what had been agreed of betwixt him and *Tribigild*, and that this was a fit time for putting it in practice, sent to him to draw down his Forces toward the *Hellspont*. And had he concealed his design against the State, and silently drawn himself with his *Barbarians* out of *Constantinople*, it would in probability have succeeded, all *Asia* might have been seized, and nothing could have hindered but that the whole East must also have been lost: but fortune intending still to preserve the *Roman* Princes, *Gaines* halted from the City with such heat and fury as was natural to *Barbarians*, and when he was come to *Heraclea*, then signified to *Tribigild* what he would have him to do. *Tribigild* neglected to follow his Orders in marching to the *Hellspont*, for fear he should fall among the Forces that lay upon the Coast; but having laid waste all *Phrygia* without any opposition, fell at length upon *Pisidia*. The News hereof was brought to *Gaines*, but he made no haste because of the agreement betwixt him and *Tribigild*; and as for *Leo*, he, though the *Ajax* of *Eutropius* hovered still about the *Hellspont*, not daring to fight with *Tribigild*, but pretending he was to have an eye especially to that Country, lest the Enemy should suddenly fall into it. Therefore had *Tribigild* his full scope to go any whither, and do what he pleased, many Towns he took, and therein put to the Sword as well the Inhabitants as the Soldiers, and not a *Barbarian* would be on the *Roman* side, but joyned with their own Countrymen against the Subjects of the Empire.

65. *Gaines* now pretending to bear heavily this Devastation of the Provinces, yet magnified the Arts and Stratagems of *Tribigild*, affirming him insuperable as to Conduct, and that rather by his sagacity, than force he had done such things. He passed into *Asia*, but attempted nothing, and suffered the Cities and Countries to be wasted, following only the Enemy, and being a Spectator of what he did; indeed expecting that *Tribigild* would now make for the East, for which Expedition he sent him some Forces, still covering his Designs, and concealing himself as much as he could. Had now *Tribigild* out of *Phrygia* not gone directly towards *Pisidia*, but taken the straight course into *Lydia*, nothing could have hindered his being instantly Master of it, and with it of *Ionia*, also; whence he might easily have passed over into the Islands with as considerable a Fleet as he pleased, have overrun all the East, and laid all waste as far as *Egypt*. But making for *Pamphilia*, which bordered upon *Pisidia*, he fell into a Country strait and mountainous, and utterly inaccessible with Horse. There, though no Army was found to oppose him, one *Valentine*, an Inhabitant of a small Town called *Selga*, situate upon an Hill, a Man meanly skill'd, yet not altogether inexpert in War, got together a number of Slaves and Countrymen, such as he knew to be exercised in the continual Combats they had with Robbers in those parts, and placed them upon such Hills as were near to the Passage, so as they might see all that came, though themselves in the clear day could be seen of none. *Tribigild* being come down to the lower parts of *Pamphylia* with his Horse, and being entered the Straits, was put to sore disorder by these Countrymen, who tumbled down great Stones upon his Men. But to avoid them there was no way; for on one hand there was a deep Lake and Fenny Grounds, and on the other was a narrow ascent which scarcely afforded passage to two Men a-breast; and from the orbicular shape of it, was by the Inhabitants called *Cochlea*. This passage was guarded by one *Florentius*, who had Men enough to make it good, so that the *Barbarians*, intercepted in these Straits, were knocked on the Head with Stones, and there perished for the most part: some of them took the Lake with their Horses, and there found that which they endeavoured to

| escape

sect. I. escape from on dry land. *Tribigild* with three hundred Men got up into the *Cochlea*, and corrupted with Money *Florentius*, to give him passage, and so escaping himself with this Company, suffered all the rest to be lost.

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66. Imagining now he had escaped the snares laid for him by *Valentine*, he fell into a danger full as great as was the former. For, all the Inhabitants of the Country in a manner, being got together, with such weapons as were at hand, shut him and his three hundred Companions up betwixt the Rivers *Melane* and *Eurymedon*, whereof the one ran by *Sida*, and the other took its course through *Aspendus*. Not knowing now what to do, he sent to make known his condition to *Gaines*, who was much troubled at these accidents; but having not yet unmasked himself, he sent *Leo*, who was next him, to the assistance of the *Pamphylia*ns, to joyn with *Valentine*, and hinder *Tribigild* and his Men from passing the Rivers. *Leo*, though a Sot, and given to all luxury, yet did what was enjoyned, which perplexed *Gaines*, fearing that *Tribigild*, in this manner beset, and having not suitable Forces, might utterly miscarry: he sent therefore some Companies of *Barbarians* he had with him against the *Roman* Camp, who pillaged the Country, killed all the Soldiers they met, and gave not over till they had destroyed *Leo* and his Forces, and laid almost the whole Country waste. *Tribigild* by this means got away, and what *Gaines* designed came to pass, for he having escaped out of *Pamphylia*, did greater mischief than ever, to the Cities of *Phrygia*.

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67. *Arcadius*, thus abused by the Villanies, and tricks of those about him, set himself in another way to inforce his Army, and repress that Rebellion of *Tribigild*, of which he hoped, by the valour and conduct of *Gaines*, to have shortly some good account. Understanding that many Soldiers straggled, and absented themselves from their Colours, he sent to *Theophilus*, the Vicar of *Asia*, express order that he should cause such Fugitives to be apprehended, and held in custody till he should have acquainted him, and received directions how further to deal with them: but to be sure such an one as should be found again to absent himself after he had been once discovered to straggle, should forfeit his whole Estate. This he ordered toward the end of *January*, in reference to the Soldiers that quartered in the Provinces, and there straggled abroad; there was a great want of some course for stopping such as flocked to *Constantinople*. Four days after, or the first of *February*, he signed a Constitution directed to *Romulianus* the *Præfect* of the City, wherein he enjoyned him, That if any Soldier was sent by his Company or his Tribune, to Court, about business, he should presently address himself to some of the illustrious *Comites*, and there discover the cause of his coming, that he might receive a speedy dispatch. By the Law he commands that all *Præsent*es, or such as were to be in waiting or attendance at Court, and such as belonged to other Companies or Legions, that were absent, or without employment, or had put themselves into the Retinues and Services of other persons, return to their stations. This he had reason to do, and more severity had been agreeable enough to the distemper of this Age, of which the straggling and licentious wandering about of Soldiers, is reckoned to have been one very great Symptom. Now, when Armies were abroad, and upon other occasions, complaints were made concerning Quarters, the Military Men being insolent in exacting more and better room than the conveniences of their Landlords could afford them: *Arcadius* being informed hereof by *Hosius* the *Magister Officiorum*, for preventing such disorders, in an Edict directed to him, prescribed what Rules he would have observed.

L. 16. de re mi-
litari. Cod. Th.
Dat. 5. Cal. Febr.

L. 17. q. 5. d. tit.

had to pre-
nt Abuses as
|Quartering.

68. In whatsoever City, saith he, either we our selves shall happen to be, or they that serve us, all dishonesty both of *Mensores* (or Quartermasters) and of such as are entertain'd, being removed, let the Master of the House securely and without fear, have to himself two parts thereof, and a third go to the entertainment of his Guest, yet so as the Master himself have the first choice, his Guest the second, and the third part remain to the owner of the House; as equity and justice ordain, that he, who by Inheritance, by Purchase, or Building, hath a Right to the whole, ought to make the first choice himself, and enjoy what is left and refused by a Stranger. But as for *Ergasteria*, Shops or Ware-Houses, they shall by no means be subject to this Burthen, except in the third part assigned to the Soldier there be want of Stabling, for then the Master shall be bound to provide for him out of these Ware-Houses, which usually had Stables adjoining to them, where Pack-Horses were wont to be kept and fed. But as for persons illustrious by their Quality, they shall have half of the House, so as either they or the Master shall make the partition, and the other chuse. *Arcadius* was

L. 4. de Metaiis.
Cod. Th. lib. 7.
tit. 8. Dat. 8. Id.
Feb. & 1. 2. Cod.
Just. cod. tit.

Sect. 1.

And eating up
of Meadows:As also super-
exaction of
Provisions.Gives leave
that new Wine
be given to
the Soldiers in
November.Labours to
prevent a Con-
spiracy be-
twixt the
Actuaries and
Numerarii.Commands
the Fabricenses
to be branded
in the Arm,
to prevent
their running
from their
Employments.

farther now so sensible of the Incroachments made by the Soldiers upon Grounds and Pastures with which they had nothing to do; that to restrain the liberty they took to themselves herein, he wrote, also, to *Simplicius*, a *Comes utriusque Militie* in the East; commanding him, That he should take care that none of them should feed their Horses in the publick Meadows, and pleasant Pastures; which long Custom, and the Delicousness of the Grounds, had hitherto fenced from such Violations; neither in the Fields which belonged to private Citizens of *Antioch*, upon pain of a Forfeiture of twelve pounds of Gold, to be payed by such Violators and the Officials of the *Magister Militum*, provided that the *Curiales* took care to furnish the Army with convenient Pasturage.

69. In the time of War when Provisions were to be raised for the Army, great complaint was made against the *Actuaries* and the *Optiones*; whereof the former were the Clerks of the Troops that took the accounts, and the other received the Provisions from the *Susceptors*. To prevent their frauds, *Arcadius* now gave order to the *Praefectus Praetorio*, that before the beginning of an Indiction Breives should be sent from the *Magistri Militum*, in which was to be expressed how much the Army stood in need of in general, and the several *Numeri* in particular. Then, when the Tax was laid, should other Breives thereof be dispatched to the *Scrinia* of the Prince, that by comparing them together, any cheat of these Officers might be discovered, which was to be punished with payment of the double of what they superexacted from the Provincials. Amongst other sorts of Provisions we see that Wine was wont to be furnished for the use of the Army, and the old was doubtless most desired by them. But the Corporation of *Epifane* a Town in *Syria*, not far distant from *Apamea*, petitioned the Emperour, for what reasons is not expressed, that in the Month of *November* the Soldier might be served with new Wine; which petition he granted, and gave order to *Eutychianus*, that he should cause this Rule to be observed in his District. By new Wine is usually meant that of the present year, or last Vintage: and by old, that of the year foregoing; but yet both old and new are to be understood according to the nature of the Wine, and the Custom of the place. For some requires a longer time to ferment and ripen, as the *Falerum* was not fit to be drunk till the tenth, and the *urrentinum* before the twenty fifth year. Others work speedily, and are quickly ready; as this seems to have been about *Epifane*.

70. But at *Constantinople* all were in an hurry and tumult, because of the motions and attempts of *Tribigild*, and all persons desired to flock thither, where each one could meet with those of his own party, and most news was to be heard. The *Actuaries* or Clerks of the Army were observed to loiter there especially, and it was discovered that there was more than ordinary kindness and familiarity betwixt them and the *Numerarii* belonging to the *Praefect* of the City. The importance of this understanding betwixt them was too considerable; for the *Numerarii* dealing in Accounts, and making those Breives which concerned the use of the Army, and the work of the *Actuaries* being such, as we lately said, they had opportunity by laying their Heads together to raise more than was needful for the service of the Soldiers, and put the advantage into their own Purfes. For this reason it was, that now *Arcadius* being at *Nice*, gave in charge to *Severus* the *Praefect* of the City to see, that no Communion or Society (which tended to the destruction of all) should be betwixt these Men. And that the *Actuarii* within fifty days (a sufficient time to dispatch the business they came about) should depart this City, or if they were there found after the expiring of this term, they should incur a forfeiture of five and twenty pounds of Gold. But such a restless humour, or a desire of lawless liberty, had now possessed the minds of all sorts of Men, that the *Fabricenses* also, or those that wrought in the publick Forges made bold to change the Air and their Employments, which caused the Emperour, at the suggestion of *Hofius*, we may believe, the *Magister Officiorum*, to whom the Constitution is directed, to give command, that as *Tirones* or new raised Soldiers were marked in the hand that they might be known, as also were the *Aquarii*, or such as belonged to the *Aqueducts*; so such as served in the Forges should be branded in the Arm, not as a sign of crime or servitude, but that they might also upon occasion be discovered when they ran away from their work. And such as should harbour the Fugitives he will have condemned to the service; to be sure the children of the *Fabricenses* themselves, who were *Conditionales*, or subject to the Condition, State and Service of their Fathers. Thus *Arcadius* employed all the Civil Power he had for carrying on the War, while in the mean time he was galled by all about him, and each strove how he might make his Markets out of that publick calamity which impended.

A.D.
398.L. 3. de Pas-
cod. Th. lib.
tit. 7. & l. 2.
Cod. Just. cod.
tit. Dat. 5. id.
Mart.L. 24. de Eng-
tione Militi.
Annona. Cod. J.
et l. 9. Cod. J.
cod. tit. Dat. 2.
Cal. Apr.L. 25. de Pas-
cod. Th. Dat.
Cal. Jun.
L. 10. Cod.
Just. cod. de
hinc interpola-
ta est, id est
& amputata
pate historice
quo tamen re-
et sic ut an-
imago ligi-
anima cogno-
noscentur. ut
thofred.L. 15. de Sa-
rariis, Cod.
Dat. 4. Cal.
Ne distincti
condictorum
aciem, Alii
Numerarii
Confortiis
venerunt, et
l. 6. Cod. J.
cod. tit.L. 4. de Pa-
censibus, Cod.
10. tit. 22.
3. Cod. Just.
tit. Dat. 1.
Jan.

71. Now

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ed put to
, as Oro-
ath writ-

71. Now, Spring drawing on apace, great expectation there was how *Mascezil* behaved himself in *Africk*, and how matters would go betwixt the two Brothers; and they received an account of the dispatching of the War sooner by far than was expected. *Orosius* tells us, that *Mascezil*, knowing, by the example of *Theodosius*, how powerful Prayer made in the Name of Christ, though in most desperate Affairs, is wont to be; went to the Island *Capraria*, at this time famous for the Monks that inhabited it; some of whom he prevailed with to go along with him: And continuing day and night with them in Exercises of Prayer, Fasting and Singing, obtained a Victory without War, and satisfaction for the injury offered him, without Slaughter. By a River called *Ardalio*, running betwixt the two Cities, *Thebaste* und *Metridica*, he pitched his Camp; wherein, it's said, he had not above five thousand Men. The Enemy was no less than seventy thousand strong: And there were some Straits of a Valley which *Mascezil* thought he needs must pass: which, when he considered of, our Writer tells you, that St. *Ambrose*, the Bishop of *Milan*, lately deceased, appeared to him in a dream, and making a sign with his hand, struck his staff to the ground three times, and said *Hic, Hic, Hic*: By which he prudently conjectured the Victory was foretold; by the word, the place to be signified; and by the day, the number.

72. Accordingly, he stayed that time; and on the third day, having spent the preceding night in prayer, and other Christian Duties, he led out his Men against the stragling and disorderly Enemy. To those he first met he spake kindly, and persuaded them by fair means: but one that carried an Ensign opposed him, and exhorted his Friends to begin the Battel. He perceiving this, gave him a stroke upon the Arm with his Sword; and the Wound so weakened the part, that the Man was forced to let fall his Colours. Those Troops that were behind, seeing this, took it no otherwise than as a token of Submission; and imagining that those before them had yielded, struck their Standards also, and came in to *Mascezil*. Hereat the *Barbarians*, of whom *Gildo* had brought a great multitude into the Field, being discouraged, and having none to lead them, fled several ways. *Gildo* got to the Sea, took Ship, and set Sail; but was recalled into *Africk*, and there perished by strangling, after a few days. We should, *Orosius* adds, be in danger of being thought to lye impudently, if we should make relation of so great miracles, if there were not Witnesses sufficient, who beheld them with their own eyes. There was no Treachery or Ambush; but yet, seventy thousand Men were overcome, in a manner, without fighting: He that was overcome fled for some time, that he who had the better, might not find whereon to vent his present Anger. He is transported into another place, that he might not know his Brother was slain; by whose death he received satisfaction. *Mascezil* himself, being puffed up with his success, and forsaking now the company of Holy Men; with whom formerly assisted in his Fight, he had overcome; adventured, even, to violate, and put out of the Church some that there had taken Sanctuary. But Punishment overtook the Sacrilegious Person: for he alone, after some time, was punished, they being still alive, looking on and insulting, whom he had drawn out to Execution; and in himself alone he experienced, that Divine Justice watcheth still on both sides: He being assisted when there he had his trust, and at length slain, when he came to despise what before he had trusted.

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73. The end of *Gildo* was brought about just after, or much according to this manner; so soon, and with so little ado, as filled all Men with admiration, as we may perceive by *Claudian*, in his Poem concerning this War; who falls into a kind of extasie in his thoughts concerning it. Had the second Book of this Poem been preserved, we had had much more light concerning the management of the Affair: for, though his expressions be Poetical, and many Fictions he hath, and figurative speeches; yet not so as, ordinarily, to intrench upon the very substance of the Actions which he introduceth whole, though clothed in his witty dresses. From him we learn, that this War began in Autumn, or toward the beginning of Winter; and in Spring, was finished. How, in all this time, *Rome* was miserably oppressed for want of Provisions; which, by his Poetick power, transforming into a Woman, as is usual with Men of his Art, and their Brethren, the Painters; He carries her up to *Jupiter*, and there makes her tell a very sad tale of her Calamities. And to History is very agreeable her very Case, as she states it, that she had, since the time of *Cesar*, been, for her merits, rewarded with both *Egypt* and *Libya*; that, by her Summer Fleets, both her Warlike Senate, and her Ruling People might be nourished; a Course wherein she could not but be securely provided for, the one constantly supplying the accidental defects of the other. But af-

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Lib. 7. c. 35.Congressum pro-
prium captum
vox nunciat u-
na, Numoremque
sui preuenit
laurea belli.Quem veniens
indixit hic,
ver perculit ho-
stem.

Secd. 1. ter that another *Rome* was risen up, a *Rome* equal to her self, and that the East had obtained for it self Gowns as good as hers, the *Egyptian* Fields passed over in Dower to the new Mistress; and *Libya* was only left her to trust to, though that Country was in no certain condition to supply her; and yet was she now deprived by *Gildo* of that also. That herein *Rome* was no Lier, the Laws made since the erecting of *Constantinople*, and other Monuments, sufficiently satisfy us. But we cannot be so much assured of what he brings in *Africa* uttering, in grievous Lamentation concerning the Slavery that she underwent; whether she was not a little sick of the disease called *Fides Punica*, or being transported by her passion, she was failed also by her memory.

74. We should chuse rather to tax our other Intelligence, of Ignorance in this point, having such slender Accounts of matters from the Historians that are remaining, but that we are restrained by a surer Monument. *Libya* complains, that twice six Winters had that Yoke of *Gildo* layen on her Neck: that he had grown old in her Calamities; and now challenged that as a Kingdom which he had possessed so many Years, though she wishes she could call it a Kingdom, being whatever lay betwixt *Atlas* and *Nile*, *Prætorium* and *Ganges*; indeed and truth, a third part of the World was become the Field or Possession of one Robber. The Reader is to remember that this was *Gildo*, the Son of *Nubel*, the petty King of *Mauritania*, and brother of *Firmus*, who was driven into a Revolt from the *Romans* in the Reign of *Valentinian*, by his Courtiers; and afterwards into such Straits by the Arms of *Theodosius* the General, that he hanged himself. *Ammianus Marcellinus*, after the Revolt of *Firmus*, mentions *Gildo* as continuing in fidelity to the *Romans*, but it is with an *As yet*; so that he knew that afterwards he also failed in his fidelity, though his History extended not so far as to the time of his Defection: Wherein, else, we had had an account of it. But here lies the difficulty: *Claudian* speaks of *Libya* being under his Yoke twelve Years; whereas there is extant an Edict directed to him by the Title of *Magister utriusque Militiæ* throughout *Africa*, dated on the nine and twentieth of *December*, when *Theodosius* the third time, and *Abundantius* were *Consuls*; which was not much above four Years before this his Defeat. This shews him then to have been intrusted as a *Magister Militum*, and not to have revolted; at least, not then to have been in the State and Condition of War. *Baronius* makes an attempt of bringing in the Revolt and Usurpation of *Firmus*, and joining it in the number of Years mentioned by *Claudian*. But the Usurpation of *Firmus* fell out in the Year CCCLXXII, or twenty six Years before the Defeat of *Gildo*, above double to the number found in *Claudian*; so that *Ammianus* and this Poet compared together, and all things considered, *Gildo* seems to have been on and off, fickle, inconstant, treacherous upon any occasion; and fawning again when there was danger of being called to Account, as anon will be more apparent.

75. That *Theodosius*, when he made preparations for the War against *Eugenius*, sent to *Gildo* for Assistance; and was denied both it, and obedience from the *Moor*; is evident enough from *Claudian* also, in his Poem concerning the sixth Consulship of *Honorius*; where he compares *Gildo* and *Alarich* together in their disobedience to that Emperor, whom he saith, they often despised with a prophane mind. This was but the Year after the date of the Edict inscribed to him as *Magister Militum*, so that he seems, as is said, to have played fast and loose, and one while to have pretended Obedience and Friendship, and then, again, declined his Duty, as *Alarich* did; and that often, as the Poet expresseth it by the word *Sæpe*. Hereat *Eutropius* took advantage, and thought to gain him off from the Party of *Honorius*, and joyn him to himself for carrying on such designs as he had in his head; to which, an Acknowledgment of *Arcadius* as his Prince and Sovereign was added as a Cover, which *Gildo* was glad to pretend, as that which might give him some advantage against *Honorius* and *Stilicho*, to whom he lay next Neighbour, and with the Interests of whom he most clashed; those that then ruled the Eastern parts being more at a distance, and therefore, not so much to be feared by him. It's true, he usurped, or owned not *Theodosius*, as the Poet here hints; and therefore, what *Zosimus* writes concerning *Eutropius* his sending to him, and drawing him off to the Party of *Arcadius*, could not give the first beginning to his Revolt. But whereas *Baronius* contends, that at this time there was no misunderstanding betwixt the two Brothers, *Arcadius* and *Honorius*, occasioned by the loss of *Africa*, he seems not to have considered what *Claudian* saith, as well in one place as in another: For nothing is more palpable or evident than that difference was arisen betwixt them upon this Account. In the very entrance into his Poem concerning this War, in his Exulta-

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*cum subit
Roma mihi
visaque su
æquales
ra togas
propterea
In partem
novam. Sp
nica nobis
Rebatat L
que vix
que foret
Solo ducta
nunquam
futura.
Semper in
ventique fi
posibat &
Hanc quæ
nunc Gild
pat sub fin
dentis Aut*

*lis habere
Bis senato
quent hyem
cervicibus
quo
Heret tri
gymnastis
lactibus n
Consensu
namque sibi
vindicat
Atque uti
regnum!
Lult. ad l
Fuliam d
dulteris, Co
Th. lib. 9. 11
Dat 3. Cal.
A. D. 393*

*namque su
Europa li
hostes. Na
us Atlas
Gildoni su
Alaricum l
bara Peas
Nutrierat
Sæpe suam
vere profu
Mente pati
Toracum t
tem finibu
ter
Hebri elau
quis, alt
cepta voc
Respuir an
isque ad p
ma bella n
tis.
Abjurata
lan libye
dat arza*

tion

Sect. 1.

tion for peace restored, and *Africk* joyned again to the Empire, he puts this as a principal matter, that *Full Concord of the Brothers now returned*. But in the Body of his Work after that he hath brought *Rome* and *Africa* before *Jupiter*, and there made them to pour out their complaints, he fains the result of the Dictate of him and his Council to have been this, that the two *Theodossi*, Father and Son, whom he terms *Divorum Proceres* should be sent to their Children, the one to one of the Emperours, the other to the other, to carry the secret Admonitions of *Fove*, and his Orders to the Brothers, and make a League or Agreement betwixt their two Kingdoms. •

76. The Grandfather is by the Poet carried into *Italy*, but the Father himself unto *Arcadius*, with whom at the very first, when sighing would give him leave, he falls into a grievous expostulation. Are matters come unto this pass? Is there Discord risen betwixt Brothers by the intervention or means of a *Moor*, and the united World and Courts of Brethren now disagree? Is the safety and preservation of *Gildo* a fit prize for so great fury? A Man indeed remarkable for his Morals, and to be defended at any rate, in respect to whose merits a Brother is to part with his fraternal kindness! But see a little of him in me thy Father. The Civil War grew on apace, and the Roman Empire stood in a doubtful posture. What King was there then, though at never such a distance, in *Armenia*, or upon the Banks of *Meotis*, who gave me not assistance in the Expedition? The *Goths* and *Geloni* sent me their Aids. He alone sent me not one Ship, not one Soldier, but sat still in a fluctuating humour. Had he gone off to the adverse Party, I should better have born it: but he stood, as it were, in the Watch-tower of Fate, and expected to which side the Balance would incline; was an observer of Event alone, and resolved to give up himself to the Conquerour. Truly had not I been taken away by death, I should have followed the example of *Tullus* (*Sufetius* he means, of whom the Story is ordinary in *Livy*, and others) and have caused him to have been pulled in pieces with Horses; Hitherto he pretended an observance of thy Brother's Commands, and now he tramples upon them: and dost thou offer, after having thy Father and Brother so used by him, to trust thy self with such a Monster? But he largely rewards thee for it, and hath brought over many Cities into thy lot. Therefore must Right be bought and sold? Shall Treachery be acceptable, if introduced by reward? Then after somethings said against *Gildo* for his inconstancy and perfidiousness, he puts *Arcadius* in mind how odious Treachery was to the ancient *Romans*: how *Fabrics* would not make use of that Treason of the Servant against his Master, and how *Camillus* restored the Boys to the besieged City. •

77. He proceeds to tell him that what others refused to admit of against an Enemy, he, to the great infamy of the Age, closed with against his own Brother: that *Gildo* now conferred the Government of the South on whom he pleased; which way soever his inconstant and tottering fancy moved, thither went *Lybia*; and *Africk* was become the gift of a *Moor*. At length he desires him to avoid the treachery and perfidious designs of that people, and not engage in a War against his Brother, an Action which might become only *Thebes* and *Myce-*ne, and a crime fit for the *Moors* to commit. That he should have a respect to the merits of *Stilicho*, who had done so great things for both the Brothers, and now was Father-in-law to *Honorius*; as also to *Serena* his Wife, their near Kin- woman. At parting he desires only that he would withdraw his hand from *Gildo*, and suffer him to fall, for he knew *Stilicho* would do his business. To this, *Arcadius* answered, that he should be obeyed, that none was dearer to him than *Stilicho*; that the Rogue in *Africk* should perish for him, and the Country return safer than formerly to his Brother. • A wonder now it is, that *Baronius* should say, that no difference is found to have been betwixt *Arcadius* and *Honorius*, about taking away the Province of *Africk*: the greater wonder, because he cites *Claudian*, and gives credit to him in other matters, as are not near so evident as that for which we now contend. It is no way probable, that the Poet would counterfeite so material a thing, a matter of such consequence as this, take so much pains, and use so many words about it. But it is superfluous to say any more; had we alleged but only what he saith at the entrance into his Poem, that the *Concord of the Brothers now returned*, it had been enough. The strength of *Gildo* considered, and what help he might have received by the means of *Eutropius*, Providence ordered it well for *Honorius*, that an opportunity was presented of setting one Brother against another, and revenging his Treachery upon him, in the same way as he had dealt betwixt the two Emperours. Thus by his death was *Africk* delivered from great oppression

Señ. 1. oppression (he being a most tyrannical and wicked man, as *Claudian* sets him out) and that Country returned into obedience to the Empire, together with the Dominion of *Gildo*, which was so large, that it alone became the charge of a *Comes*, who in the *Notitia* of the Empire is called *Comes Gildoniaci Patrimonii*. His Person fell not into the hands of his Prosecutors, though his Estate did. For *Zosimus* writes, that lest he should come alive into their power, he hanged himself.

A. L
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Honorius after
his Defeat
publisheth a
Law against
false Accusers.

78. Now, as it always happened after the suppression of a Tyrant, followed a prosecution of his Friends and Abettors; and this continued a long time, he having, by keeping the power so many years, established an interest very considerable. And to be sure, upon such occasions there wanted not those, who would accuse, right or wrong, hoping to ingratiate themselves, by laying the charge of Treason to those persons after whose Estates they gaped; and a sense of this oppression after such Conquests, drew out several Laws from Princes for suppression of this sort of Cattel. *Honorius* was now very early put in mind to do the like. For we find an Edict directed toward the beginning of *March* to *Victurus*, the *Proconsul* of *Africk*, wherein he declares, that he will not suffer innocent persons to be ruined by the Accusations of crafty Men, under a shew of false Crimination: and if such should attempt any such matter, they must know, that they shall feel the severity of the Laws for such offences, whereby being made infamous, they were also to be driven into banishment. This haste was made to obviate the practices of Informers; for it must have been presently after the Defeat of *Gildo*, being so early in the year. As hereby *Honorius* could not but please all honest Men, both in *Africk*, and other places; so we know not how grateful he was to the *Spaniards*, in reference to a thing he now did, relating unto their Country. That payment called *Glebalis Collatio*, and belonging to *Senators*, though usually payed, had been remitted, it seems, to some in *Spain*, and probably by *Theodosius* their Countryman, out of kindness to their Nation, and respect to the circumstances of certain persons, who by reason of Poverty, or some Employment, as *Pagan* Priesthood in the Cities, might pretend to excuse or favour. One of this number was *Eventius*, a Senator, but poor, being the Priest of the Province, and possibly under other qualifications; and now the *Glebalis Collatio* was demanded for such Lands as he stood possessed of. He denied payment, alleging and pleading privilege from the Immunities granted to the Priests of *Spain* in general, and the particular qualifications of his own person: upon his Refusal the Officers betook themselves to *Felix* the *Præfectus Prætorio* of *Gall*, to whose Government, *Spain*, as a Diocess, was at this time subject, and he approving of *Eventius* his excuse, declared him free from the Tax. But the matter rested not here, but was reported to the Emperour; who taking it into consideration, by a Rescript directed to *Felix*, declared first that this Imposition was a Burthen of the Soil, and not any personal charge, and therefore upon necessity they must be liable to it that received the Revenue of the Lands. This considered, he ordains that *Spain*, and consequently *Eventius*, should only enjoy that privilege of Exemption for the present time; but for the future, in payment of dues, be bound to the customs of other Provinces.

*L. ult. de co-
natorib. l. 1.
Th. lib. 9. ti.
Dat. 3 Id.
Med.*

*Vide Sym-
lib. 4. c. 2.
L. 10. de So-
torib. l. 1.
Dat. 4. Co-
Abst. 1.
Just. ut
vi. d.*

The Sea being
now open, *Hon-
orius* im-
proves that
opportunity
for supply of
Rom.

79. The Sea being now open, and all Impediments removed for bringing Provisions to *Rome*, *Honorius* published a Constitution for the good Improvement of this Advantage, Corn and consequently Bread being now cheaper, he commanded that one Loafe of that called *Panis Ostiensis* (from *Ostia*, the Port where the Corn was landed, and Store-Houses were made to receive it) and *Panis Fiscalis* (from the Fiscal Canon or Store, out of which it was made) should be sold but for one *Nummus* or a brass *Denarius*; a thing of so small value, that six thousand of them made but one *Solidus*. But the Bread was but Course, though not of the very courtest sort; however the Emperour commands that none dare to obtain a Rescript for the increasing the Price, imposing a Fine of two pounds of Gold upon him that shall attempt it by petition. In like manner he charges *Theodorus* the *Præfect*, to whom this Constitution is directed, That a Mult of five pounds of Gold be inflicted upon such Knaves as should impudently desire, that Water should be granted them for their Gardens, or other private uses, out of that whereby the Mills were driven at *Rome*, and Provision made for the maintenance of the People; as also the same Fine to be imposed upon the *Præfectus Annona* and his Officials, if they should suffer it to be done. And in the last place, he wills, that in the same manner such be punished as shall usurp the Right and Use of any Granaries or Cellars within *Rome*, or at the Port, belonging to the Company of Bakers, in order to publick service. For all these things

*L. un. de
panis. Offi-
Cod. lib. 14.
19. Dat. pu-
Apr. Abst. 1.
Just.*

*Improbora-
tion: ut
pud. l. 1.
sunt possi-
c. l. 1. d.
none sum-
urbis Romæ
Th. lib. 14.
15. Abst. 1.
Just.*

were

89. were in their hands and management for the making of Bread, as well the Mills as other Instruments. And thus much he ordained for their Encouragement. But whereas it was usual for Judges, in way of punishment, to condemn Criminal Persons to the service and drudgery of the Bake-house; some persons at this time (Ecclesiasticks or others) out of a sort of pity, made it their business to procure Rescripts for fetching them thence, to the hindrance of so necessary a Service. Of this he takes notice also to *Theodorus*; And, upon his head that should go about to obtain such Warrants; as also, such Judge and his Officers as should approve of it, he sets the like Fine of five pounds of Gold.

80. But with the Judges or Governors of Provinces he found great fault at the Close of the Year; their Ambition being so great, that no Laws could put a stop unto it. We have heard how often they had been prohibited from making new Works, and raising new Structures, whereon to transmit their Names to Posterity: yet they could not forbear, but some of them busied themselves so far therein at this time, that it drew forth from him another Edict, wherein he commands *Theodorus*, that, Without leave obtained from the Prince, none dare to do it: And as for the Ornaments of Cities consisting in Iron, Marble, and other Materials, that they remove them not from one place to another without the consent of him their *Præfekt*, under the penalty of three pounds of Gold; which Fine he sets so imposeth upon any Corporation that shall not defend themselves, but suffer their Town to be deprived of its Ornaments. But as for the publick Granaries and Stables, or Harbours for Cattel, if the Judges of Provinces will attend the building of them, he commends their industry therein. But those were Works far below their consideration; especially their quality, not becoming the industry of such Persons as built noble and large Structures: and not only so, but had Statues of Brass, Silver or Marble erected to their Memories. This was done by the *Decuriones* of some Cities, to flatter them; for such intelligence *Honorius* received: and in this same Constitution commands *Theodorus*, That such Judge as had received them without the Emperor's Approbation, be detected. For his punishment, he will have him forfeit fourfold of what he had got in that Dignity he had polluted, together with his extorted and presumed Titles; and withall, incur Infamy, or loss of Reputation. In conclusion, he declares that they shall not fail of losing their Fame also, who, out of flattery or fear, had done that which was unlawful.

81. The *Fasti* and Monuments of the following Year, or the CCCXCIX. of our Lord, present us with the name of but one *Consul*. This was *Fl. Mallus Theodorus*, a Person very eminent in those days, as well for his great Learning, Eloquence and Excellency of his manners, as the greatness of his Quality and Fortune. Of this, St. *Augustine* gives large testimony; who might be thought to favour him as a Christian, had not *Claudian* the Poet written a most elegant and learned Panegyrick upon the occasion of this Consulship; wherein he extraordinarily extols him for several things, and his Vertue in general. And with Vertue he begins, which he sets forth with her excellent qualities. That she is a price unto herself, without any external Reward; being alone altogether secure, and unconcerned as to Fortune: That she is not puffed up with Honour or Preferments, neither covets to be rendred famous by Applause of the Vulgar; being desirous of no external assistance, nor standing in any need of Praise; as abundantly satisfied with her own Riches, and being not to be moved by any Accidents; looking at a distance, and as from an high Tower, upon the Affairs of mortal Men. Yet is she sought after and courted by Honour, though unwilling; as appeared in the Consul that was fetched from the Plough, and in him (*Theodorus*;) whom being intent upon the search of the Mysteries of Nature and of the World, now Emerite, and removed from Judicature, the same Authority and Dignity did embrace, with an Addition of the Consular Ornaments. To make this out in elegant words, he tells him how his first and ruder Years did indeed mold and fashion him to such a posture as fitted him for the Curule life; and that the old Men, out of the admiration of his Prudence and Eloquence, though they be wont to despise Youth, gave place unto him. Now did he betake himself to the *Forum*, and there defended accused persons (the custome of the young Noble Men of *Rome*, to fit themselves for great Employments) where the Bench was amazed at his Language. After this, part of *Libya* approved of his Administration of Justice; so that, it seems, he was made Proconsul, or Vicar of *Africk*; then was *Macedonia* and the Walls of *Pem* committed to his charge; which thereupon conceived as great joy, as when *Philip* their King fought his prosperous Battels, or when they heard the News of the Fall of *Porus*.

Sect. I.

by which we may understand, that he was made *Præfectus Prætorio* of *Illyricum*. Now would not the Court any longer permit that the Cities should have him all to themselves ; but resolved to make him her own, that he might give forth Edicts to Nations, and to Petitioners, Answers. He tells him, the Oracles of the Emperor increased by his Eloquence ; neither did ever *Roman* Majesty speak more gracefully, than by his mouth.

His Studies
and Retirement.

82. Hereby must be meant, that he was *Quæstor* ; whose work it was to compose Edicts and Answers, and to be the mouth of the Emperor to the people. But from this Employment, he was raised to be *Comes Sacrarum Largitionum*, as appears from what he sings concerning Sacred Riches, Tributes and Gold, both of Mines and Rivers, being committed to his charge. And now, as a Mariner who had been used to the Oar, when having obtained sufficient skill, is removed to be Pilot, to command the whole Vessel, and give directions to all that are in it : So was he removed, to govern both the *Spanish* and *German* Ocean ; and *Brittain* also, separated from the rest of the World ; being obeyed by slow *Arar*, fierce *Rhodanus*, and rich *Iberus* : So that he obtained the Dignity of *Præfectus Prætorio* of *Gall*. Having run through all these Honours and Employments in one Age, in a swift course, and while as yet but a young Man ; being arrived at the pitch of Glory, he now desired ease and the shade : where he gave himself wholly to the study of all the parts of Philosophy ; which the Poet runs through in a learned, though Poetical stile. He tells him, that with *Roman* flowers he irradiated the obscure Acts of the *Greeks* ; having translated, as he hints, the Dialogues of the School of *Socrates*, and the Works of other great Philosophers. Now he thought himself fully at ease ; having taken up his Station, and cast Anchor, and fully pleased himself therein ; and Books followed Books, which would live for Ages after his Decease : When Justice out of Heaven beheld him loitering, and her Laws greatly wanting such a Judge ; which sight not enduring, she forsook her place amongst the Stars, and came down to *Liguria* ; where entering his House, she found him drawing the lines of a Celestial Sphere in dust, as the Ancients were wont to practice their Mathematics. With many good words and commendations she set upon him to persuade him, that the Glory of his time already passed, might not suffice ; forasmuch as no time ought to prescribe how much, or how long, Mankind was to be taken care of ; and Prudence is not contained in any bounds. She demands, if he think it more worth his while to dwell upon abstruse Notions ? Whether the Precepts of his *Plato* more profitted *Athens* ? or the Actions of him who destroyed the Eastern Fleets, carried the City in Boats, and delivered it from being burnt by the *Mede* ? meaning *Themistocles*. She shewed how much *Lycurgus* profitted *Sparta* by his severe Ordinances ; whereas the Doctrines of *Pythagoras*, and his Years of Silence, could give no relief to *Tarentum*.

na tibi
naque
pauit,
didit
nia ma
Dicer
column
gile
Lentus
Rhodan
rox, &
Iberus,

His returning
again to the
Management
of State Af-
fairs.His Justice and
Learning.

83. Telling him, that now Clemency and Piety, Peace and Fidelity, were with her self resolved to come and live in the Cities, she desires him to return with them ; which he, not able to deny (as to Justice it was not just) though sufficiently sensible of the Rust which through disuse he had contracted, she delivers into his hands four Reins of Government. Of these, one belonged to *Padus* and *Tyber* of *Italy*, glistening with her thick set Towns ; the other curbed the *Libyans* and *Carthaginians* ; the third extended to the *Illyrick* World ; and the last restrained *Sardinia*, *Cirnon* (or *Corfica*) and three square *Sicania* (or *Sicily*) with the Coasts of the *Tyrrhenian* and *Ionian* Seas. This shews that he was *Præfectus Prætorio* of *Italy*, to which *Africk* and the Islands were joyned ; and of the Western *Illyricum*. After this, the Poet falls into a great Commendation of him, for the goodness and justice of his Government ; wherein he paints out the perfect Portraiture of a just Judge in all his Lineaments, and admires him for his Eloquence, and his Books written concerning *The Original of the World, and the Parts or Faculties of the Soul* ; which, to our great loss, have miscarried ; and wherein, he saith, he expressed his own manners and disposition. After all this, he subjoins, that the Emperor deferred not that Reward which was due to his Merits, and wherewith learned and good Men were wont to be adorned ; but gave him that Habit which joyned the Court of Justice and the Palace, the Prince and his Nobles together, and made him his Successor in the Consulship ; which he had now born the fourth time. At this Solemnity (as there was wont to be exhibited a Shew of the *Circensian* Games) *Urania*, by whose Instructions he had made his Spheres, summoned in all the other Muses to give their Assistance, in procuring what was wont to be seen in these *Spætacula*, after that, first, *Helicon*, and the other Rivers, had signified their joy ; he, by pouring out a larger Stream, and they, by sending forth plenty of Flowers. It's convenient

to take notice that he mentions in those Shows, the running of Horses, Wrestlings, Stage-plays, Combatings with wild Beasts, Mimicks, and all sorts of Musick and Voices; amongst which, Organs moved by Water, Dancing upon Ropes, flying in the Air, and other Feats of Activity, Sights of Fire, and of Boats swimming on the Theatre. *Barthius*, one of those Learned Men, who, by their Notes and Commentaries have explained this Poet, observes, that amongst these, he makes no mention of the *Gladiators*, because *Constantine*, he saith, had formerly taken them away. But he was mistaken, *Constantine* indeed prohibited them in the East; but at *Rome* they were still in fashion, and not prohibited fully, till five years after by *Honorius*. Indeed all good Men were troubled they should be continued: and the Christian Bishops made often great complaints of it; and this *Theodorus* being a conscientious Christian, the reason is rather thence to be fetched, why at his Shows they were not exhibited. His Virtues and Learning were so great as to move *Claudian*, though a Pagan, to write such a Panegyrick, as in the opinion of the said *Barthius*, is a most Learned, most Eloquent, and *tantum non*, a Divine Book; pointing to a great part of the Mysteries of humane Wisdom, which, if one would interpret, as it deserves, it were necessary to search into all the Archives and Treasures both of *Greece* and *Latium*. Indeed, it deserves the perusal of all that are concerned in such matters; and some respect to it, as well as to the Man, hath made us more tedious, than we intend to be hereafter upon any such Concerns.

84. But the Poet in his Exultation upon the promotion of *Theodorus*, applauds the Fate of Virtue, Wit, Industry, and Desert, that answerable Returns were made unto them; that the *Curule* Chair was not violated; that no filthy Names polluted the *Faßt*; that this Honour was granted to valiant Men, being such as belonged to the Fathers alone, and would never bring any shame to *Rome*; whereby he seems to tax what was done this year by *Arcadius* in the East, and those about him. For he that was designed there Consul for this year was verily no other than *Eutropius* the Eunuch, who was far from pleading merit; was neither valiant, nor could be a Father, and therefore by him the *Curule* Chair was violated, the Registers polluted, and shame redounded, if not to *Rome*, to *Constantinople*; as the same Poet with elegance sufficient, sets it forth in other Poems, he wrote against this vile Man. He obtained the Honour of *Consul*, and further than that, of *Patritian*, or the Father of the Prince, which was no wonder, considering the power he was arrived at; it had been a greater wonder, had he continued in so extravagant a power. As his Ambition raised him, so it pulled him down, and gave him not much time to enjoy his Consulship, but brought on speedily his Destruction; of which, because *Gaines* was the Procurer, we shall begin with the matters of that Traitor, where we left them, and shew out of *Zosimus* how one Vermine, as frequently it happens, devoureth another.

85. *Gaines* wonderfully cried up the Achievements of *Tribigild* to the Emperour, and affrighted sorely the Senate and all the Courtiers, affirming he would march to the *Hellepont*, and put in danger the present posture of Affairs, if the Prince would not have a respect to his Proposals. This he did cunningly, that *Arcadius* might not discover his intentions, and that by such things as should be granted to *Tribigild*, he might have greater advantage to put them in execution. For it did not so much grieve him, that he himself was, as he thought, despised; as it enraged him to see *Eutropius* now preferred to the highest pitch of Dignity and Power, having obtained to be *Consul*, and to be honoured with the Title of *Patritian*. These were the true motives to *Gaines* to attempt an alteration, and being now prepared for it, he resolved in the first place to compass the death of *Eutropius*. While he yet lay in *Phrygia*, he sent to the Emperour, to let him know, that by reason of the great Conduct and Experience of *Tribigild*, he was utterly at a loss; that there was no withstanding of him; but that *Asia* must necessarily be lost, except he would condescend to what he desired, whereof this was the main, that *Eutropius*, as the grand Author of all mischiefs, might be given up into his hands, to do with him as he should think convenient. Hereupon *Arcadius* sent for *Eutropius*, and abrogated his Power and Dignity, whereupon he speedily betook himself to a Church of the Christians, which from him had received the privilege of an *Asylum*. But *Gaines* being very urgent, and saying, that *Tribigild* would not remit any thing of his Indignation, except *Eutropius* was made away, contrary to the Law which gives to Churches the Right of Sanctuaries, they took him thence by force, and banished him into *Cyprus*, where he was kept by a strict Guard. But still *Gaines* being importunate and urging the Emperour to put him to death, at length, they that were next about him, eluding by a quirk that Oath they had

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*Crispina vivens
fuerat, sed
ingenitum patris
campus certus
que morant
stat favor.
Non hic soluta
Carulis,
Tropia non La-
tius in claus
nomina fastos,
Festibus hec
per ista veris,
solitum e non la
pudibiles. Et
Romae non tam
libera pado est,
a. 399. 11
3. 27. 12*

*Expositio de
Eutropio. To. 2.
m. 100.
Baronius male
legit, que ob
illorum m. 100.
Asia conquesta
vitunt.*

Señ. 1.
He is put to
death, and
how, accord-
ing to Zosimus.

given him, when they took him out of the Church, sent for him back from *Cyprus*; and as if they had only sworn, that they would not kill him while he remained at *Constantinople*, removed him to *Chalcedon*, and there caused him to be slain. Thus was *Eutropius*, after an unwonted manner, treated by fortune in both sorts. For she promoted him to an higher pitch than ever any Eunuch had attain'd; and then brought about his Destruction, for the hatred which those that were Enemies to the Commonwealth said they bore unto him. Thus *Zosimus*.

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How far his
Relation is
true.

86. The substance of this Story is true, but according to his manner, he fails in considerable Circumstances. After his being deposed from his Dignities, he did indeed betake himself to a Church, as to a Sanctuary; but the Church had no such Right or Privilege of an *Aylum* from him, who was so far from procuring this privilege to Churches, that the year before, he procured *Arcadius* to make a Law against it. The Church to which he fled, was that of *John Chrysostom*, now Bishop of that See, who protected the miserable Man as he lay embracing the Altar; and would not suffer him to be taken thence, till he had obtain'd an Oath from the Emperour, that he should not be given up into the hands of *Gaius* to be put to death. Both Emperour, Soldiers and People sufficiently now convinced of his extravagant courses, were glad to be rid of him; but when *Arcadius* heard he had taken Sanctuary in the Church, he restrained himself and the Soldiers too, from meddling with him. But the People, to which the Church was open, being more heady and unruly, and moved with an hatred to his person, was not so to be governed; but their golden-mouthed Bishop was forced to mount the Pulpit, and charm them with his powerful Rhetorick. Some have charged him with impudence and unmanlyness in insulting over a Man in misery; but the Oration he made, is still extant, and so may speak for him and it self.

L. 3. de la. q.
ad Ecclesi.
confugiunt.
Th. de. p. 11. q. 1.

From Chrysostom
the Bishop his Oration.

87. It begins indeed with an high upbraiding of him for his former course of life. If ever before, now may we say, *Vanity of vanities, all is vanity*. What's "now become of the great pomp and splendour of the Consulship? Where are "now the illustrious *Asces*? Where are the Applauses, Banquetings and Merriments? "The noise of the City? Those high Acclamations and Flatteries of the Spectators "of the *Circensian* Games? Those Garlands and Musick? All these are past and gone. "A violent Tempest hath blown down the leaves, spoiled the Tree, so as it dan- "gerously totters; and so great a storm continues still upon it, that having weak- "ened sorely its roots, it threatens to lay it along on the ground. Going on in this "manner, he thence demonstrates to his Auditors, that they should all, in all pla- "ces, upon all occasions, and at all times sing this Song one to another, *Vanity "of vanities*: that they should write it on their Walls, in their Cloaths, in the "Forum, in their Houses, in the Ways, in their Windows and Doors, and especi- "ally in their Consciences. He then demands of *Eutropius*, whether he did not "tell him, that Power and Wealth were uncertain things: but he would not hear "nor believe him; as neither when he told him, that he was a better Friend to him "than all his Flatterers; that the wounds of a Friend were rather to be endured "than the kisses of an Enemy; this he would not endure then to hear, but severe- "ly checked him for his faithful admonition. Formerly he ranted against Church- "es, and was all for the Theatres. Now the Theatres upon which he had spent his "Treasures, were earnest to cut his Throat: and the Church and Church-men, "whom he despised, were become his Safeguard and Protection. He adds, that "this he said, not to insult over a prostrate and miserable man, but for the Instru- "ction and security of others; not to make his wound bleed afresh, but to keep o- "thers invulnerable and in good health, by putting them in mind of the mutability "of humane Affairs; which cannot be compared with any thing that can suffi- "ciently express their inconstancy, not Smoak, nor Hay, nor Dreams, nor the fine "flourishing Flowers of the Spring. This sufficiently appears, saith he, in this Man; for "who than him, was more eminently dignified? Did not all Men fear and reverence "him? but now he is become more wretched than those in the Goal, more miser- "able than Slaves, and more necessitous than Beggars that starve for hunger; ha- "ving ever before his eyes, Swords ready brandished against him; seeing nothing "but Precipes and Executioners; and intent only on the way that leads to deserved "punishment, having no Friend that will own him in his extreme distress. What "need words when your eyes convince you: for the Emperour having sent his Of- "ficers to bring him by force out of Sanctuary, what thing can be more pale than "he? a dead Man hath as much colour in his Cheeks; his Teeth chatter in his Head; "a trembling hath invaded his whole Body; his voice is interrupted with sobbing, "and he stammers in his speech. In sum, he is in such a plight and condi- "tion, as when the Soul is altogether overcome with fear. " 28. This "

88. This I say again, I speak, not to upbraid him in his misfortune, or to insult upon him in his misery; but that I may soften your minds into Compassion, to stir you up to Commiseration, and to persuade you to be satisfied with his present Punishment: Because, amongst our people, there are many so inhumane, as to traduce us for receiving him; desiring to soften the hardness of their hearts, I make such a representation of his miseries. And, I beseech you, what is that that so sticks with you, that cannot be passed over? You will say, that he is now fled to a Church, who, without intermission, was an Enemy to Churches. The more God is to be praised, who hath suffered him to be reduced to such necessity, that he might perceive both the Power and the Clemency of the Church: its Power, in that such an alteration is brought about in that Enmity that he exercised against it; and its Clemency, in that it covers and protects its Enemy, as with a Shield stretched over him; defends him with its Wings, and forgetting former injuries, opens its bosom to receive him. This is more glorious than any Trophy, more famous than Victory; this shames both *Pagans* and *Fews*. To oppose it self against the anger of the Emperor, and the intollerable rage, fury and hatred of the People, is the Ornament of the Altar. You will say, an Ornament indeed to the Altar, to be embraced by a notoriously wicked, covetous and rapacious Man. But, take heed what you say; for an Harlot touched the feet of Christ, an incestuous and impure Woman; and yet this was no fault of his, but redounded to His great praise, and the admiration of Him: His Purity was not concerned for her Impurity; but He purified her thereby. Neither must you talk of Injuries; we are the Servants of Him that was crucified for us: who said, *Forgive them, for they know not what they do*. Indeed, as you may object, by written Laws he took away Refuge and Sanctuary from this place: But now he hath learnt by experience, what it was he did; And by his own deed, hath first abrogated his Law, being become the Spectacle of the whole World: and though he be silent, yet he sufficiently instructs all others; and bids them beware by his Example. In this respect the Altar is become more illustrious, and obtains greater Veneration, in that it holds a chained Lyon: As the Emperor seems not so glorious when he sits upon his Throne, clad in Purple, and adorned with his Diadem; as when *Barbarians* lie at his feet, and with their hands bound behind them.

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89. That I came not prepared to speak these things, you, by your haste and concurrence, sufficiently witness. This indeed; you esteem a brave sight, and you account it a merry meeting; neither do I perceive the Assembly to be less than it was in the late Feast of *Easter*. You are so excited by the silence of this Man; which, at present, is more thrill than any Trumpet. Virgins have left their Closets; Women their Work-houses; and there are no Men to be found in the *Forum*. You all come to behold, represented, the defects of Humane Nature; the momentary mutability of Worldly Affairs discovered, and the Lustre of States-men transformed; which yesterday, and the day before, were very glorious. Such Prosperity as ariseth from the Ruin and Oppression of other Men, is now demonstrated to be more deformed, than the Wrinkles of an old Woman; an alteration of Affairs, like some Sponge, wiping away that Paint wherewith it was covered. Let such as are rich come to this Show, and from it they shall receive great profit; seeing him, who lately made all the World shake with one nod, fallen from so high a pitch of greatness; shrunk so much with fear; more fearful now than any Frog or Hare; sticking to a Pillar without binding; and, instead of a Chain, tyed by apprehension of danger, grieving and trembling; they will put down their loftiness; and considering what ought to be considered in Humane Life, depart instructed in this point, according to what the Scriptures teach us; that *All Flesh is Grass, and all the Glory of Man is the Flower of Hay: The Hay is withered, and the Flower hath faded*. On the other side, if a poor Man come to be a Spectator, he will not be displeased with himself, nor deplore his own condition; but thank his Poverty, which is to him in stead of a Sanctuary, of a most calm and quiet Haven, and as a most fortified Castle: and all laid together, if he might have his wish, he will chuse rather to be content with his present condition, than, having, for a while, enjoyed the Estates of all other Men, presently fall into danger of his own life.

90. Have I, then mollified your minds? Have I appeased your anger, and extinguished your Inhumanity? Have I wrought in you any Commiseration? I believe I have; as I gather from your Countenances and Tears. Seeing, then, the Soil of your hearts is turned into fat and fertile ground, proceed to bring forth fruit

Sect. 1. Fruit of Mercy, and the Blades of Commiseration: and let us fall down on our knees to the Emperor; or rather, deprecate our most Cracious God, that he may soften his Rage; and vouchsafe to give him a tender heart, that we may fully prevail with him. And, since the day that this Man fled hither, there is no little alteration: For, after the Emperor knew that he had here taken Sanctuary, the Soldiers flocking together, and in a rage against his Crimes, demanding him to be given up to Punishment, he made a long Speech to them, to mitigate their displeasure; telling them, that they should not altogether look at his Faults, but have some respect to his good Deeds withall, and consider who it is that should reward him for them; and if any thing hath happened through frailty, pardon that also. But they still urged, and were unquiet; crying out, that he ought to be punished for the injury he had done to his Majesty; some sentencing him to Banishment, and others condemning him to death, with shaking of their Spears (as usually in a Tumult) at which he brake into tears: and striking them with a fence and reverence of the most holy Table, at length, with much ado, he appeased them. And let us, I pray now, contribute what we may toward so good a Work. For how can any of you be excused, if the Emperor, on his part, pardoning so great Offences, you, having no such Provocation, still persist in your Rage. How can any of you, after this Assembly is dissolved, either handle the Sacraments, or pray this Prayer, *Forgive us our trespasses, as we forgive them that trespass against us.* Perhaps he hath done you great mischief or injury, and we shall not deny it: But this is not a time to judge, but to have mercy; not to require satisfaction, but to have pity and compassion; not to examine, but to forgive; not to vote or censure, but to absolve. Let none of you then be angry and incensed against this Man; but rather implore the Mercy of our merciful God, that his life may be saved, and that he may be delivered from this imminent danger, for the correction of his manners. And let us joyntly become Petitioners to the Emperor, in behalf of the Church and the Altar, to desire, that one Man may be freely granted to it: which, if we do obtain, we shall both do that which is acceptable to him; and God himself will approve of what we do, and reward us for it. To whom he makes, like a good Christian, a solemn Address upon this Account, and so concludes.

His Eloquence
failed not of
effect.

Eutropius had
solicited the
Emperor, ac-
cording to
Philostorgius.

91. To this purpose spake the Bishop; and his Eloquence failed not of its Success, being duly regulated by the methods of Prudence. Had he gone about to excuse him, he had the more enraged the multitude: but owning his fault, and laying open the sadness of his condition, by discoursing Christianly and politickly concerning the inconstancy of all worldly Affairs, he accomplished what he designed. For, the Emperor, the Soldiers, and all the People remitted much of their former Indignation; and they were contented that he should live, and feel the effects of the Sanctuary. But, whereas the Bishop, in all his discourse makes no mention of *Gaines*; but only of an Affront or Injury *Eutropius* put upon the Emperor, as a cause of his Calamity: We must tell another story from *Philostorgius*, as *Nicephorus* Lib. II. c. 6. from him; which being known in the City, and in every Man's mouth, it was more prudent in him to touch at it, than to discover the weakness of the State, by laying before the people the power of *Gaines*. The Eunuch, grown to such an height as to make him uneasy to all persons, was now so besotted with pride and folly, as to offer several Affronts to the Empress; imagining (possibly) he might be the more bold, because she had been preferred to that Dignity by his procurement. Amongst other extravagancies, he threatened, that in a little time he would cause her to be taken out of the Palace, and sent home. She, exceedingly enraged hereat, took up her two little Daughters (*Pulcheria* and *Arcadia*) in her Arms, and went to her Husband, crying, and bewailing her condition; and bidding him to look upon their Children, she fell into a great passion of weeping, and otherwise behaved her self as a Woman would do to move compassion. *Arcadius* was extremely moved, and so far concerned for her and his Daughters, that he shewed himself an Emperor indeed; for he deprived *Eutropius* of his Wealth and Dignities, and banished him into the Island of *Cyprus*. Not long after, being accused, that when he entered the Consulship, he had made use of some Beasts or Horses, as saith *Philostorgius*, which the Emperor alone might use, though *Nicephorus* turns it into Ornaments; he was fetched thence, and brought to *Pantychium*; where he was heard and tryed before *Aurelianus* the *Præfect*, and other Illustrious Persons: by whom being found guilty of hainous Crimes, he was put to death.

92. What ever the particular was wherein he had injured or vexed the Emperor, an Act of State, or an Edict, passed for his Deposing, Banishment, and Forfeiture of

of his Goods ; still to be seen in *Theodosius* his Code. Herein *Arcadius* signifies to *Aurelianus*; That he had confiscated all the Estate of *Eutropius*, who of late was the "*Præpositus Sacri Cubiculi* ; the Consulship and the Splendor thereof being vindicated from nasty filth, from the Commemoration of his Name, and the dirtiness of it ; so that all his Acts being rescinded, all times to come may be silent concerning him ; and that, saith he, the blot and blemish of our present Age may not appear. Neither let him mourn, who by his Valour or his Wounds, propagates the Roman Borders, or defends them by the Equity of Law, that the Divine Reward of the Consulship hath been defiled by the Contagion of a dirty Prodigy. Let *Eutropius* know, also, that he is spoiled of the Dignity of *Patritian*, and all other inferior Honours, which he hath polluted with the Wickedness of his Manners. We command that all Statues, Images ; as well of Brasses, as Marble ; as well painted, as wrought out of any substantial matter ; be utterly defaced, abolished and removed out of all Cities, both private and common ; lest the eyes of any be polluted by such a Mark of this our Age. And let him, with a sufficient Guard, be carried into the Island of *Cyprus* : to which your Highness may take notice he is banished ; that being there carefully watched and kept close, he may not, by his madness, confound all things." Such is the Edict, according to the Style of this Age, which sets *Eutropius* out as a filthy Monster. To it *Claudian* seems to have respect in his Preface to his Second Book against this Eunuch ; when he saith, that his Madness fell by the Wound of a little Paper ; that the cruel Work of *Mars* was dispatched by one Letter. And as it's little to be doubted but that he saw and perused the Edict : So his Poems against *Eutropius* are but an elegant Comment upon a harsh and rugged Text ; so lively are his Representations of his Wickedness, and the disgrace that redounded to the Empire, and the Consulship, by his being preferred to so high a Dignity. All along he makes it no other than a Prodigy, or some Portentous thing, to have an Eunuch (an old Woman he terms him) to be seen in the *Trabea*, or Consular Ornaments ; and insists upon the polluting of the *Fasti* by his Name. In summ, he urges his Administration and Pre-ferment as the Violation of all Order, Fitness and Decorum.

93. *Eutropius* was now gone, but not all the effects of his Male-Administration. Those of his Creatures were grown to a strange height ; and expecting Protection from him, they were very easie to grant it to their Inferiors, when their own interest and advantage provoked them to it. Several Laws had been formerly made against the receiving of Husband-men, and such like, into the Patronage of the Great ones ; for the many Inconveniences that happened thereby, and defrauding, especially, of the Treasury. But, so sawcy were they, as still to proceed ; which constrained *Arcadius*, within less than four Months, to publish two severe Laws against this practice, which was most common in *Egypt*, of all other Countries. By the first of these he imposeth a Fine of forty pounds of Gold upon any that should continue thus to protect a Country-man, or his Ground, be he of what Quality or Condition soever ; whether a *Magister Militum*, a *Comes* (of the East, of *Egypt*, or of *Isauria*) a *Proconsul* (as of *Asia*) a *Vicar* (of *Asia*, *Pontica*, or *Thrace*) *Augustalis* (*Præfectus* of *Egypt*) a *Tribune* or a *Curialis* ; by instancing of which severally, he gives us a *Notitia* of the Dignities throughout the *Præfectship* of the East. But he, not only, increaseth the penalty formerly imposed, from twenty five, to forty pounds of Gold, upon him that receives any into his Patronage ; but imposeth the double, or eighty, upon such as seek for such Patronage and Protection, to defraud the Treasury of Tribute. This he enjoined to *Eutychianus* the *Præfect* ; but toward the latter end of *February*, and toward the end of *May* following, he was forced to renew his Commands to him ; whereby he signifies, that, To all former Laws against this Crime, he thought fit to add greater punishment : That if any shall be found to grant Protection to Husband-men, or such Country-men as possessed their own Lands, he should forfeit his Estate ; and such Husband-men, their Grounds, as shall seek after such Protections. But this mischief not only tended to the impoverishing the Emperor, but to the starving, also, of *Constantinople*. For, though there was a Body, or Company of the *Navigularii*, which of course, and at solemn times, brought Corn and Provisions out of *Egypt* ; yet, upon occasion, when any necessity urged, or the number of the *Navigularii* was found insufficient, the Ships also of private Men were pressed to the Service, for transporting of the *Annona* ; so as none could be excused. However, some endeavoured to excuse themselves, by wearing, as it were, the Liveries of some great Men ; and under their Name, and by their Interests, to protect their Vessels. *Arcadius*, to give a stop to this Course, so disadvantageous to the City,

A. D.

329.

L. 17. de Poen. 10.
Cod. Th. De 10.
Cal. Ebo. 22. ap-
paret prope pal-
chale. 10. 10.
conjugium La-
tropia ad eccle-
siam contigisse,
ut velle innuit
Boninus.

Concidit. aiguis
dementia vuln-
ri charite.
Consecit. seculum
littera martis o-
pus.

trans-
la per uibes
Ostentatur adu-
titulalque esse
muru annu.

L. 4. de Patron-
nis vicorum,
Cod. Th. lib 11.
tit. 24. De 5.
Id. Mart.

L. 5. de justit.
De 8. Cal. Jun.

Edict for
deposing
unfit-

less pro-
s great
their pro-
ing Hus-
men.

Mariners
Ept.

gave

Seft. 1. gave order to *Eutychianus* by another Law, which with the former, concerning Husbandmen made up one Constitution, that Proclamation should be made thorough *Egypt*, that every one that went about so to excuse Ships in their Names or by their Patronage from the publique service, should incur a mulct of twenty Pounds of Gold, and the owner of them forfeit their Vessels if they admitted of such protection.

A. D.
399
L. 1. De
bus non ex.
dis Cod. To.
13. tit. 7.

Unjust Accu-
sations now al-
so restrained.

94. As formerly upon the Death of *Rufinus* and Confiscating his Estate, followed an unjust prosecution of his Relations and Friends, which drew out an Edict from *Arcadius* for their just defence; so now the Informers being at worke, and several unjustly troubled about that they could not help, as to *Eutropius*; he directed another Law of the same Nature to *Eutychianus*, whereby he ordains that there the Punishment lie where the Fault is placed; that Kindred and known Familiars be protected from Calumny, being such as their Society did not render Guilty of the Crime, for as much as neither Affinity nor Friendship are any Crimes in themselves. He resolves that Offences shall reach their Authors only, and Fease shall proceed no farther than the Offence, which he commands him to intimate to all the Judges. There might be more need for this Law, because the *Macedonians* were wont to put to Death also the Kindred of those that were condemned for Treason, which though not ordinarily practised amongst the *Romans*, yet under cruel Princes, the Friends of those that suffered upon that Account, were wont also to be Sacrificed to their fury; which Practice *Arcadius* by this constitution now obviates amongst the *Greeks* and *Asiatics*; though by this Law he doth not repeal that severe one made by procurement of *Eutropius*, whereby the Sons of those there made Traitors might be freed from the Pain contained in it; for amongst *Propinqui* or Kindred, Sons are not to be reckoned, but Brothers Sisters and other Relations. As to *Eutropius*, *Claudian* makes mention of his Sister; and as a Friend or Confident he speaks of *Leo*, but especially of *Hosius* the next in place and Dignity to him in his greatness, Unlike in his first condition, *Eutropius* being a Pandor, often Sould; and he a Cook in *Spain*, but both Slaves, the Backs of them both having been torn with Lashes, and altogether like in their Acts and Tricks to abuse mankind. However by the Favour and Procurement it seems of his Brother Slave; he arrived at the Dignity of *Comes Sacrarum Largitionum*, and afterwards was promoted to be *Magister Officiorum*, The second in place and Dignity to *Eutropius*.

Lib. 2. c. 1.
— Sca.
ma potill.
Eutropium
jert Hoff.
nixa seu
Dulcor
Cunctis,
nq; move.
Juv. 2. 2.
qui temp.
nia sumo.
dus, ac ren.
qui boni
quat iram

95. What became of *Hosius* we further know not, but though he fell from his Honours, as is very probable, *Arcadius* took care for the advancing of others this Summer, to a greater degree of Eminency. There were, as we have shown before, two sorts of *Consistorian Comites* in the Court. The one was Illustrious, consisting of the great Officers, as the two *Comites* of the several Treasuries; and the other but of the Degree of *Speftabilis* being *Comites* of the first Rank but called *Consistoriani* only, because they were admitted into the *Consistori* to be present at the Debates, and hear the Answers of the Emperors, without having the Priviledge of being Councillors, as the Illustrious Persons were. At this time

confidunt
gemi d.
Eoc. Hi.
hic leno,
verbere t.
Servitio
pares, hi.
empus. A
Hispanos
tus vern.
tes av. 34
354.

The lower sort
of Consistori-
ans obtain new
Honour.

there were two of these for whom the Emperor had so much Kindness, by name *Comasius* and *Clearchus*, that by an Edict sent to *Severinus* the *Prefect of Constantinople*, he gave them and their Fellows the Priviledge of being equal in Dignity to *Proconsulares*, or those that had been *Proconsuls*, so as to take place next them above all others. Their place therefore was to be, betwixt the *Proconsulares* and the *Comites* of the *East* or *Egypt*; and they enjoyed other Immunities. As when they hired the Lands or Houses belonging to the Domaine of the Prince, they were not obliged to find Sureties; they were excused from sordid Employments, from the finding of Souldiers and Horses; from the Burthen of the Prætorship, and from the *Metatus* or Quarters. Towards the end of the Year, the Emperor received an account from *Constantius* his *Comes Rei Privata*, of many Idle Persons that belonged to his Office, and what Retrenchment was fit to be made; and accordingly ordered by a Rescript, that all such being discarded as were useles, there should be of these Palatines two hundred and twenty four of those that they called *Statuti* or in Ordinary Attendance, and six hundred and ten Supernumeraries, to be disposed into the several *Scrinia*. And he requires that none be admitted for the Future, till he have shown his Original, and then be approved by himself.

Comasii
Clearchi.
Speftabil.
dignitas
nuit &c.
L. 2. n. di
tibus Cor
anis. Co
Lib. 6. tit.
L. 1. C. de
eod tit h
terpolaja.
Cal. Oloio

The Officers
belonging to
the second
great Treasur-
er retrench-
ed.

96. *Honorius*, who, as *Claudian* in several places hints, had during the War with *Gildo*, and stopping up the Sea, procured Corn and Provisions out of *Gall*, now that all was clear, for the better supply of *Rome* betook himself again to reinforce the ordinary course of supplying the City. He discovered two sorts of Cheating practised in the Sale of the Lands belonging to the *Navicularii* and obnoxious

L. 15. D
tinis S. 1
P. Cod. Th
a Cod. J

noxious to that Burtien; wherefore one was that they were often bought with this condition, that the Seller, though unable, should undergo the charge of the Function; and the other, that on the contrary the Purchaser was often too poor to undertake the Charge. Now all such Contracts betwixt such Parties, by a constitution directed to *Messala* the *Præfectus Prætorio* he declared to be null, requiring a fit and sufficient purchaser in such Alienations, or the Function to be required at his Hands who pretended to Sell, that so no damage might accrue to the publicke. And because it was discovered that they had a trick of building their Vessels too little, so that they were not capacious enough to bring over the whole quantity of Corn, he commands *Messala* that this Cheat be also for the time to come, prevented. He mentions not of what capacity a Vessel was to be of; But ordinarily it was required that each should be able to contain ten Thousand *Modii* a *Modius* being the third part of an *Amphora*. Provisions being now plentiful in *Rome* and *Italy*, many Persons might well thence be encouraged to frequent and inhabit the Countries thereabout. And now, at this time *Honorius* in another Edict, informs us that out of many Nations, People came into the Empire, following (as he too truly expresseth it) the *Roman Felicity*, to whom were granted Lands to Till and Inhabit, called *Terræ Latice*, from those Strangers who, of what Nation or People soever they were, had the Name of *Latii*; as *Latii Alamanni*, *Latii Franci*, *Latii Batavi*. Lands being given them to Inhabit with certain Securities and Conditions; some of them were too Coverous, and got into their Hands a greater share than belonged to them, as indeed they and theirs got all at last; some by Rescripts surreptitiously procured, and some by Collusion with the Principals or Defensors. To redress this Inconvenience, he now ordered *Messala* to take care that none should obtain any of these Lands without Warrant from himself, and that an inspector should be sent to rectify what had been extravagantly done in this matter. But whereas the Emperor saith these Nations followed the *Roman Felicity*, the Event shortly after shewed, that whatever Felicity they sought for, they brought none along with them; but, multiplying so much, and siding with their Countrymen that invaded, Ruine and Destruction to the Empire.

97. At this time heavy Complaints were brought of the High ways being out of Repair, in *Italy* or other places belonging to the Prefectship of *Messala*; and it was alledged that this proceeded from the Privileges granted to Illustrious Persons, whereby they were excused from mending such as lay next their Grounds, as also were the Houses of the Prince or those belonging to his Domaine. To remove such Scandal as arose to his Government from those Immense delays as he acknowledges them, *Honorius* now took off all such Priviledges both from the great Men, and also from his own Houses, yet confirming all other Immunities granted either to Illustrious Persons or his own Patrimony. Till about the beginning of *June* he had his abode at *Milan*; but then removed, and for that and the two following Months he lay at *Brixia*, *Padua* and *Atinum* as appears by the Dates of other Laws. This Summer in his Progress he met with greivous Murmurings against the Judges, for their denying Justice, and especially in refusing to admit Appeals; and as this Greivance was too frequent in *Italy*, so rather more in *Africke*, where we find things much out of Order after the suppression of *Gildo*; during whose Tyrannical Government, in that Countrey matters could not but be driven out of their wonted Courses and Methods. Excited, as he saith, by the Complaints of many, by one Edict at the beginning of *June* he signifies that all Persons shall have free liberty to appeal from Sentences of injurious and suspected Judges, inflicting either Pains of Death or Detriment of Fortunes, and imposeth a Mulfet of twenty Pounds of Gold upon such Judge as shall refuse to admit it; withal Fining his Office, or those of his Court, in twenty five, if they did not pertinaciously, as he words it, Contradict what he did, and show him what was Law. This Edict concerned the whole District of the *Præfectus Prætorio* to whom it was directed. But six Days after he found reason to inforce it by another sent to *Simplicius* the President of the Province of *Tripolis*, increasing the Fine both upon Judge and Officers to thirty Pounds of Gold; which shews how contumacious the Governors of that Country were in this concern. But whereas he is so severe against the Officers of the Court, it is to be known that they were perpetual, whereas the Judges themselves were temporary, and therefore they had reason to know and understand the Forms and Methods of proceeding; as in all Courts, Actuaries and Registres have.

A. D.

399.

L. 8. De præditiis
Naviculariis
rum. Cod. Th. &
L. ult. Col. Just.
cod. tit. Dat. 14.
Cal. Mart.

L. 28. De Naviculariis Cod. Th.

Quoniam ex multis Gentibus sequentes Romanam felicitatem, se ad nostrum Imperium contulerant, quibus terræ Latice administranda sunt. &c.
L. 9. De Constitutionibus Cod. Th. Dat. Non. Apr. Avest a Cod. Just.

L. 4. De Finibus man. ad Cod. Th. Lib. 15. tit. 2. Dat. 3. Cal. Maj. Avest a Cod. Just.

Multorum querelis excitati, hac lege junctimus &c. L. 58. De Appelationibus Cod. Th. & L. 39. Cod. Just. cod. tit. Dat. 7. Id. Jun.

L. 59. ejusd. tit. Dat. prid. Id. Jun. Avest a Cod. Just.

Sect. 1.

The Provinci-
alls of *Africk*
vexed by the
Saturiani and
Subafrenses.

Such as receive
them ordered
to be protec-
ted.

Fugitive *Curia-*
les cited to re-
turn within a
Year.

Those that
staid incou-
raged.

Honorius came
not at *Rome* yet
he was ever and
anon provi-
ding for its In-
habitants.

98. The Provincials of *Africk* were further so unhappy at this time, that while they were oppressed by the Injustice of their Magistrates, they were harraased from abroad by the continual Incurfions of those Robbers called *Saturiani* and *Subafrenses*. These *Saturiani* we mentioned before, and the Depredations they made in *Lybia*; which they left not off, though repressed and forced to betake themselves often to lurking Holes and Places of Retirement. With them now were joyned the *Subafrenses*, possibly the same with the *Mazices* another People of *Africk*, next Neighbour to them, and joyning to the *Roman* Pale, which they conspired to vex and harraase with their frequent inroads; as the *Saturiani* a People lying betwixt *Libya Syreniaca* and those properly called *Afri*, and by inversion of the former Letters called *Austuriani* or *Auxuriani*, were wont to do in the Days of *Julian*, *Valentinian* and *Valens*. So violent were their Attempts now, that *Honorius* was obliged to provide against them by Instructions given to *Messala* the Prefect; wherein having first declared that he had prosecuted, with his Arms, their Conspiracy as far as was convenient; he observed, that to avoid the Danger of being taken and Punished, they betook themselves to several lurking Holes. Now to stop these Holes he resolves that such as harbour or conceal the *Saturiani*, shall forfeite the Grounds where they are Concealed, except immediately after the publishing of this Edict, they give them up to be proceeded against according to the Laws. In like manner shall he be punished that gives any harbour to any of the *Subafrenses* who had joyned themselves with them in their Conspiracy, or shall remove them out of the way; and in case such Offender have no Estate to loose, he shall forfeite his Life, as the Rule hath been, that he that hath no Money must suffer in his Body. He threatens such as shall know of, but not discover such a disobedient Person and make known where the Robbers Lye. And because those Theives had seized and held in their own Power, certain Grounds and Territories, he commands that a diligent Inspector be sent down, to offer these wasted Grounds to the former Possessors, to be again cultivated and inhabited as formerly, if they will accept of them: if not, then to deliver them up to others, provided that the Tributes be secured.

99. Whether it proceeded from the Pride and Injustice of Magistrates, or these frequent Robberies, or some other cause, but great were the Complaints now again of the *Curiales* running away and forsaking their Stations in this same District of *Messala*. And now their Custome was, to betake themselves to some Imployment in some Foreign Province, where they might not be found out, thinking thereby to evade the usual Burthens; but *Honorius* gives him orders to Cite them to come in, within a Year, which time he thinks it reasonable to allow; and if within that time they do not appear, then their Estates to be secured for the use of the Corporations. Others to avoid the Burthen which they thought appropriate to the soil, clandestinely sold their Lands; but these fugitive Contracts, he declares also Null, and will have the Buyer to forfeit what he Payes for the Purchase. But to give these men some sort of Incouragement for their better supporting these Charges to which they were thus fixed, it was seasonable withal to afford them some protection from the Insolence of Governors of Provinces and the Officers of the Revenue, which in all times, notwithstanding there were frequent Laws made against it, were wont to be severe upon them. To this purpose he gives in Charge to *Messala* by another Branch of this Constitution, that those among them called *Principales* be not subjected to Examination by Torture or the *Plumbata*, but be secured by their Merits and the Offices they have born, from such Punishment; as the rest of the *Curiales* be protected by their Innocence. And whereas the Provincial Judges had often no Conscience in imposing Mults and setting Fines upon the Heads of those who were under their Jurisdiction, the Emperor resolved to put a restraint upon them as to this matter.

100. *Honorius* came little at *Rome*, and some have imagined, out of aversion to place or Persons; but however he might personally stand affected to it, his Imperial Authority much exerted its Power in order to the Maintenance of its Inhabitants. Now again in *Autumne* it stood in need of his Assistance as to that particular, many Cheats having been discovered in withdrawing off that supply of Corn and Provisions which were wont to be brought to the City. Some for their ease or advantage, that were to bring in one sort of Species, would import another, as Oyl for Wheat, or Money in lieu thereof, which might more easily be imbezilled and converted to other uses than Corn it self could. But they would procure the Rescript of the Prince for so doing, which he now so detests that

d. 1

39

L. un. de
anis &
frensis.
Tol. lib. 7.
Abest a l
Just.

Qui non
in evit.
Cod. ult.

L. 161.
vionib.
Dat. 1.
Septeml

L. 8. D
benda
Cod. Th
tit. 1. c
Cod. J.
tit.

L. 6. D
nibus.
lib. 9. t.
L. 17. c
Cod. 11

L. ult
multa
Just. l
14.

Q. 1.

that he declares to *Messala* against this Practice, and makes such Rescripts null and invalid, as had already been procured; punishing those that should attempt any such thing to the defrauding of the City, in the double value of the thing. But what hope was there that private Persons should be free from such Faults, when the Officers and Magistrates themselves were guilty of greater, who were now so bold as to make use of these Provisions for their Families, and Rob the publique Granaries for supply of themselves and their Officers? Against such as had done it already, whether the *Vicar* or other Magistrates of Provinces, he shows himself so far incensed, that he requires Fourfold from them, whereof half from the Judges and half from his Office; and if any such Offence be discovered for the time to come, he inflicts Deportation on the Magistrate, and no less then Death upon the *Primates* of their Offices. And as before in reference to the changing of Provisions, so now he further declares in order to payment of Tributes or the *Species Annonaria* usually paid, that the obtaining of a Rescript shall operate nothing against the Compulsors, that exacted the Payment contrary to the antient Use and Custome of the Place. Discovering also how the Compulsors themselves and *Exactors*, or those that exacted the Tributes, followed the Example of the Officers in Rome; he wrote to *Apollodorus* the *Proconsul* there, that although by the Law he might require Fourfold, yet if they would bring in the *Annona Fiscales* or *Cellarienses*, after the publication of his pleasure, he would take no farther Advantage, if they did it within three Months; else they should pay the double. And he requires under the same Penalty, the Officers of the same Judges to bring them in, that were Offenders; allowing them an Action against such as fled.

A. D.

399

L. 5. De Canone
frumentario ut
bis Roma Cod.
Th. & L. 3. Cod.
Just. cod. tit.
Dat. prid. Non.
Septemb.

L. 6. Eiusd. tit.
Cod. Th. & L. 6.
ad. Cod. Just.
Dat. 4. Cal. Oct.
ob.

L. 15. De Ex-
actionibus Cod.
Th. lib. 1. tit. 7.
Abest a Cod.
Just.

L. 16. De Jure
Fisci. Cod. Th.
Dat. 12. Cal.
Sept. Abest a Cod.
Just. ut histori-
ca & tempo-
ria.

re-
the Pro-
als.

tired out
Com-
ts.

mands
es to put
aws in
ution.

ids the
f Horses to
smen in
is and
was

101. So many Complaints crouded in on all Hands, the disorders of this Age ushering in the Ruine of the Empire, that *Honorius* might well be wearied with their number. *Benignus* at this time was *Vicar* of Rome, having formerly governed *Sardinia*, and sent in to him an Account of misdemeanors committed where he was concerned. One was, that the *Curiales* forsook the Cities, and sheltered themselves in the Body of the very *Centenarii* or such as dealt in Timber. He bids him fetch them thence with all convenient haste, and taxes him and other Judges for their remissness and troubling him upon all Occasions. For, saith he, there being so many Laws in force against such as receive or harbour Fugitives, it would be more fit for the Judges to put them in Execution, than to make relation of them to the Prince. Another thing, was of the great Robberies committed in the Province of *Valeria* and *Picenum*; for the prevention whereof, he prohibits the use of Horses to all Herdsmen throughout these Countries; and if their Lords or their Procurators connive at their former Practice, he will have them punished with no less than Banishment. This Province of *Valeria* not heard of, till about this time, took it's Name, it's probable, from the *Via Valeria* or the Way so called; as did *Æmilia* and *Flaminia*. It was under the Administration of the *Vicar* of Rome, as other Provinces were that were not of the Number of the *Urbicarian*, of which this could not be, as *Gothofred* concludes, because when these Provinces were so named, the Province *Valeria* was no where to be found, except it was in *Utopia*. However *Picenum* and it, it seems, abounded in Robbers, and such as kept Cattel were suspected to drive that Trade, for which, Horses were thought to be very Convenient. It may seem strange to some in this Country, where we inhabit; why Horses should be thus prohibited to be used, they being so necessary an Help to humane Life, as here in *England* we daily experience. But though in this his Purgatory. this noble Beast be so unworthily treated, he finds more ease and respect in the Southern Countries, where usually we see that Asses are bred up in great Numbers, which ordinarily bear the Burthens and do the druggery.

L. 162. De De-
curionib. Cod.
Th. Dat. Cal. De-
cemb. Abest a
Cod. Just. Exe-
cutiones presta-
re Judices Con-
stat non re-
sere.

L. 17. Quibus
equorum usus
Cod. Th. lib.
9. tit. 30.
Abest a Cod.
Just. ut tempo-
ria.

102. However this operated against that evil of Robbing, which it was designed to prevent, the Emperor at the latter end of the Year called some in *Africk* to account for some kind of Robbery that could not be prevented. During those twelve Years, or that long time that *Gildo* domineered in *Africk*, he held in his Hands many Lands and Possessions, the Farmers of which trusting to and bearing themselves high upon his greatness, would not pay those Tributes which were due for them, and by his Power were born out in their Contumacy. But now their support being gone, as just it was, the Emperor commands that whatever was behind should be paid, and nothing abated, but for what they could show discharges. The Law is directed to one *Peregrinus* by the Title of Comes, and *Procurator Divina domus*, or of the Emperors Patrimony, who at this time

L. 16. De Bonis
Proscriptorum
Cod. Th. Dat. Cal.
Decemb. Abest a
Cod. Just.

ons in Ar-
e during
usurpation
ildo, called
count.

Señ. 1. amongst other things in *Africk* relating thereunto, managed also the late Estate of *Gildo*, which great in it self, and greater by accession of Lands belonging to his Followers, became afterward, as we said, so considerable as to have a *Comes* of its own, who had his Office to himself, his *Procurators*, *Præpositi* and *Rationales* through divers Provinces of that Diocels, even as had the *Comes Rei Private*. But as *Honorius* by vindication of his Tributes from these Farmers justly provided for his Revenue; so for the lessening of his Charge, as his Brother about this very time, he made a Retrenchment of the Attendants upon the two great Officers of his Receipts. Many Persons belonging to several Bodies, to the *Curia*, or Courts of Corporations, and to the Officers of the Governors of Provinces, had crept into the Number of these Palatine Attendants. He orders therefore *Messala* to cause them to be drawn back to their several Charges, allowing to *Longianus* the *Comes Sacrarum Largitionum* five Hundred and forty six; and to the *Comes Rei Private* three Hundred, his Office consisting but of four, whereas that of the other had ten *Scrinia* belonging to him. Those that were over and above these Numbers, he commands to be inrolled, with their Names and Countries added, that so they may, with the more ease be known and demanded back to their several Charges, if the Parties concerned can challenge them; and the rest taken for *Supernumeraries* to succeed if fit, into such places as shall happen to be void. Withal he inflicts a severe Punishment upon the Adjutors of the *Palatine* Office; if they suffer any more to be admitted (as out of Covetousness they were wont to do) even no less than Banishment and the Confiscation of their whole Estates; for their work it was to look to the Registres, or the Books of Entries. Such as are not fit for Employment, he commands with Passports from the Judges, to be sent forthwith into their several Countries.

Officers belonging to the two great Treasurers retrenched.

Stilicho at length Consul.

A wonderment why not before.

103. Being now arrived at the CCCC Year of our Lord, and inquiring for Consuls, at length we finde one whom we have had cause long to look for; viz. *Stilicho*, the *Comes* and *Magister Utriusque Militiæ*, as the Inscriptions of the Laws stile him, the Father in Law of *Honorius*, and the great Director of the West. Why he should not all this while have been adorned with the greatest Dignity of which a Subject was capable, might well be the wonderment of all Persons that considered the great Power he was in, and his great admirer, or Flatterer, *Claudian*, makes all the World astonished at it, and so solicitous it should be done, that he ingeniously, after his Poetick manner, makes several of the Provinces undertake a Journey to their Lady and Mistress *Rome*, and with her expostulate, that their Expectations had been so long delayed. They all lay open to her his Merits. * *Spain* acknowledges he had done for her whatever she had desired, only envied her his own Honours. She complains that as he despised the Consulship in the time of *Theodosius* his (Adoptive) Father in Law, he now denies to accept it from his Son in Law *Honorius*. Yet wishes he would receive the Fasces, if not from the World as it's General, yet from the Court as it's Kinsman. For her part, whatever he thinks, she judges it a matter of no small concernment, that he had been so kind and faithful to her *Iberian* Offspring, or the Nephews of *Theodosius* the elder; that the Purple was still an Honour to the *Spanish* Nation; that he would make the Emperor fruitful by the Issue of his Daughter *Mary* (wherein the Prophet failed, for she died childless) and gave hope that he should be a Grandfather to future Princes. Thus spake *Spain* which he introduceth cloathed with golden *Togas* and having her Haire tied up with the Leaves of Olives. The next he presents is *Gall* with a Yellow Visage and her Haire combed back behind her Ears, adorned with a comely Chain or Bracelet and carying two *Gasa* (a sort of Weapon used by the antient *Galls*) in her Hand, * She briskly demands why he, who alone had for her subdued the *Germans* and *Franks*, was not yet to be read of in the *Consular Fasti*? how it came to pass that that Book should be ignorant of so great a Name, which ought to have been reiterated in it? And asks of her, if the Glory of quieting the Parts about the *Rhine* were so inconsiderable a thing? * The next to her that appears is our *Britain*, covered as he sets her out, with the Skin of some *Caledonian* Monster or strange Beast, having her Cheeks painted with a Sword, and the Train of her Robe of a Sea Colour, resembling the Tide of the Ocean.

104. She declares how *Stilicho* had preserved her when she was about to perish by the neighbouring Nations. When the *Scot* put all *Jerne*, or *Ireland*, into disturbance, and the Sea fomed again with these Robbers. From his care saith she it proceeds that I now stand in no fear of the *Scottish* Armies; that I tremble not

A. D.
399.

L. 16.
tini's S. L. C.
P. Dat ad 36
Jan. 10. C.
ejusd. tit. D. n.
Longianum Com.
S. L. ab lat.
Cod. Th. m. 1.
coassand. d.
diversus mag.
status data
fatione juu.
materam.

* Cuncta m.
semper Still.
quacumq; populi
concessit tan-
tumq; sub in-
dit honore.
* Qui mihi Ga-
manos Solus
Francosq; sa-
legit Cur non
legitur fasces.
* Inde Caledonia
ulata Brac-
nia monstra
Ferro picta ge-
nas cuius uir-
gia verrit
Cervulus, Ope-
q; estum mui-
tur, amictus.
Me quoq; uir-
peruicem genit-
bus inquit
Muniuit Stil-
cho, totam ad
Scotus lerna
Mouit & in-
sesto spumavit
remige Titius.
Illius effectum
curis ne tui
timerem Scoti
came Pictum
timerem, nulli
fore toto Pre-
spicere dubis
uenturum Saxo-
na ventis.
vide Claud. li
pr. Cons. Stil-
chon's a. v. 228.
ad v. 269.

at

Señ. 1. rannical Demand *Arcadius* assented, and they were accordingly delivered up into his Hands, whom, having received, he caused the Sword only to touch their Skins, and satisfied himself with driving them into Banishment. And he passed over into *Europe*, and commanding *Tribigild* to follow him, left *Asia*, to take a little Breath. He himself making his Abode at *Constantinople*, dispersed thence the Soldiers that formerly lay in Garrison; so that he left the City naked, even of the Palatine Guards. His Followers, the *Barbarians*, he had ordered, that when they saw the City clear of them, they should upon a signal given, seize upon it, and deliver all in it into his power; whereupon he left the Town, pretending he was unhealthy, and that he must betake himself into a place and condition free from care and trouble; and leaving there his Soldiers, he removed about forty Furlongs from the City, whence he expected to hear of some Commotions very shortly, that he might invade it. Neither had his Design failed him, but that driven headlong by a barbarous fury, he anticipated his time. Without any signal given, he brought his Men to the Walls; at the sight whereof the Watch being affrighted, gave notice to the Inhabitants, and such Lamentations and Tumults followed as are wont to be in stormed Towns, till they united themselves, and jointly set upon the *Barbarians* that were in the City; whom having dispatched with Swords and Stones, and any thing else that came to hands, they retired to the Walls, and thence with such missile Weapons as they had, so distressed *Gaines* and his Men, as to hinder them from breaking into the City.

Gaines comes to Constantinople.

Which he endeavours to take by force.

Frustrated of that, and of spoiling *Thrace*, he resolves to return into *Asia*.

Fraintus made General against him.

107. The City being, after this manner, secured, the Inhabitants intercepted more than seven thousand of the *Barbarians*, who return'd to a Church of the Christians, not far from the Palace, as to a Sanctuary; but there the Emperour commanded them to be put to death, thinking it not fit they should escape the punishment they had deserved, by any privilege thereof. Such order he gave, but none there was that durst adventure to fall upon them, or draw them out, fearing they would make head against them, and defend themselves. Thereupon it was resolved, that the Roof which lay above the Altar should be uncovered, that the Soldiers might thence cast fire down upon them; and destroy them by that means; and by that means they did indeed destroy them, but to such as were zealous Christians, a great piacular crime seemed to be perpetrated in the midst of the City. However, *Gaines* being defeated in his purpose, now raised open War against the State; and falling down into the Country of *Thrace*, found the Towns both fenced with Walls, and defended by the Magistrates and Inhabitants, who being sufficiently taught experience by former incursions, had put themselves into a posture; and now made Sallies out against him, having first got all things that were of any value within their Walls, whether Fruits, Cattel, or other sorts of Provisions; so that finding there nothing but Grass, he resolved to leave *Thrace*, to march into the *Cherronesus*, and through the Straits of the *Hellepont* to return into *Asia*. While he was in hand with his frustrated designs, the Emperour and Senate made choice of one *Fraintus* to manage the War against him, a *Barbarian* also by birth, but in other respects a *Greek*; not only in his Disposition and Manners, but also in his Choice, Affections and Religion. To him, who was already famous for many Commands, and had freed all the *East* as far as from *Cilicia* to *Phenice* and *Palestine*, from Thieves and Robbers, they committed the Army; which having received, he opposed himself to *Gaines* to hinder his passage over into *Asia*.

108. *Gaines* perceiving he was matcht, exercised his Men, and prepared them for a Battel, and *Fraintus* in the mean time was not idle; but restoring the ancient Discipline of the Camp, so inured his Soldiers to labour and diligence, that they were vexed that the Enemy deferred the Engagement. Their General neither omitted, by night nor by day, to view and observe his own Troops, and discover as much as he could of the Enemies condition, and he was not negligent as to matters relating to the Fleet. For he had a number of Ships sufficient for a Fight by Sea, consisting of these they called *Liburnæ* (or Pinnaces) from a certain Town in *Italy*, where those of that fashion were first built. These Vessels were full as swift as the Gallies of fifty Oars, but not to be compared with *Triremes*. But *Gaines*, having broken through the long Wall, placed his *Barbarians* upon the Shore of *Thrace*, which is higher than the rest, and confronts these places that from *Parus*, extend themselves to *Lampsacus* as far as *Abydos*, where the Sea is contracted within the Straits. The *Roman* General passing with his Ships to and fro about these places both night and day, observed the Motions of the *Barbarians*. But *Gaines* being distressed for want of Forage, was impatient of any farther stay, and cutting down

A.D

400

down Wood in the *Cherronesus*, fitted the Planks so accurately compacted together, that they were in condition to transport both Men and Horse, which he put aboard these Vessels, and at a convenient time committed them to the water; for they could neither bear any Oars, nor admit of the skill and industry of Pilots, being framed tumultuously, and after a barbarous manner. However, *Gaines* beheld them from the Strand, and imagined the *Romans* would not be able now to grapple with him, of which their General was no whit ignorant; yet conjecturing what his device would come to, commanded his Ships to put off a little from the Shore. But when he beheld the Vessels of the *Barbarians* carried down by the Stream, he set upon the first that came in order, and falling foul on her with the Beak of his Pinnacle, which was covered and armed with Brass, after having plyed with Darts those that she carried, easily sunk her; which his Fellows beholding, imitated their Captain; so that such as took the Sea, being swallowed up of the Waves, scarcely any of them escaped with his life. *Gaines* sorely distressed with his heavy loss of so many Men, and not knowing what course to take, removed out of the *Cherronesus*, and passed farther into *Thrace*. *Fraintus* thought not fit to pursue him at this time, but kept his Army where he then was, contenting himself with the Victory that Fortune had given him.

defeats
it Sea.

A. D. .
400.

109. *Fraintus* was hereupon accused, that he did not prosecute his Enemy as he might have done, but suffered both him and the *Barbarians* that were with him to escape, being his Countrymen, and descended with him from the same Original. Hereupon he went to Court, and what was his defence? *Zosimus* tells you no more than this, that thither he went, as not conscious of any such crime, but carried himself high, and as one that had obtain'd so great a Victory, which he openly ascribed to those Gods which he worshiped. For he was not ashamed to confess in the hearing of the Emperour, that he worshiped and served the Gods, according to the custom of his Country, and could not persuade himself in this point to follow the opinion of the vulgar. The Emperour however received him, and designed him *Consul* for the following year. As for *Gaines*, he having lost a great part of his Army, as was said, hastened with the remainder unto *Ister*, and finding *Thrace* to be depopulated by former Irruptions, whatever he could meet with remaining, he made prey of it. But fearing he might be pursued by some other *Roman* Army, which might easily overpower that small Force of *Barbarians* that was left unto him, and suspecting such *Romans* as followed him (for of these some there were) he caused them all to be massacred, when they suspected no such thing; and with his Countrymen passed the *Ister* with purpose to return to his own Abode, and there to pass the remainder of his life. But while he thought of it, and was about so to do, *Uldes* (or *Huldin*) at that time Prince of the *Huns*, thinking it not safe to permit him, having an Army of his own Country Men, to take up and fix upon any Territory beyond that River, and judging he should do a thing very acceptable to the *Roman* Emperour, if he drove him thence; prepared himself to give him Battel, and gathering together his Forces, set them in order against his Army. *Gaines* considering that he could not now return to the *Romans*, nor by any other course escape the violence which *Uldes* was resolved to offer to him, went and gave Battel to the *Huns*. And they had several Conflicts, the Soldiers of *Gaines* valiantly demeaning themselves; but at length, after a great slaughter of many others, though he fought with great courage and resolution, he himself was also slain. *Uldes* the Prince of the *Huns* sent his Head to *Arcadius*, and for so doing, was both courted by Presents, and received into a League and Society with the *Romans*.

he resolves
return into
own Coun-

is killed by
Huns, ac-
cording to
Zosimus.

the Narration
Zosimus to
be supplied
corrected
other Wri-
ters.

110. Such is the account *Zosimus* gives us of this Affair, which is true, as to the Substance; but the Circumstances thereof, as of all his other Relations, are either defective, or big of the prejudice wherewith he was acted, and hurried from that grave indifference and temper, which ought to be in all Historians. If *Fohn* at this time when he was delivered up into the Hands of *Gaines*, was generally thought the Father of *Arcadius* his Son, the People must have been good Prophets that could tell he would have a Son so long before; for he was not born till the next year, in the Month of *April*. That *Fohn* and his two Companions generously offered themselves to become a Sacrifice for their Country, and divert the fury of that bloody *Barbarian*, is attested by other Writers, and some other passages are related to have happened at *Constantinople*, during the Abode of *Gaines* there. The Man was a *Christian*, but an *Arian* in his opinion; and for himself and such like, he desired of the Emperour that a Church might be assigned in the City. The Emperour taking time to advise, made the thing known to *Fohn Chrysostom*, the

the *Evangelist*;
632.

Bishop;

Señt. Bishop, and used these arguments to move him to consent that he might have a Church; that he was very powerful, and aimed at the Sovereignty, and there was a kind of necessity of pleasing his fierce and barbarous humour. The Bishop said it was not fit to admit Blasphemers to the liberty of prophaning a Church where the Son of God was worshiped, desired him not to be afraid of *Gaines*, but to call them two together, and let them debate the matter in his presence; for he hoped to pacify him, and to persuade him not demand that which ought not to be granted. The next day he got them together, and *Gaines* began to move *Arcadius* to the performance of his promise: *John* told him the Church was open, and if he pleased, he might therein do his Devotions. He replied, that he was of another Señt; and desired, that he might have another Church alone to himself, and those of his own opinion; urging, that he had well deserved it by his manly Services, performed for the *Romans* in the Field. The Bishop told him plainly, that his Rewards already exceeded his Merits; for he had the Honour of being a General, and enjoyed the Consular Dignity: That he ought as well to consider what he had formerly been, as what he was at present; to reflect upon his former Poverty, and compare it with his present Abundance; and the Cloaths he formerly had worn, with the habit which now he used. He persuaded him well to weigh these things in his mind, and not be ingrateful towards them that had so preferred him. With these and other words his Mouth was stopped, and he had no more to say.

A. D.
400.

John Chrysostom
the Bishop,
plainly tells
Gaines, his Re-
ward exceed-
ed his Merit.

And hinders
his having a
Church for
him and his
Arians.

III. For others write, that he upbraided him with the Breach of his Oath made to the Emperour's Father, whereby he engaged to be true to the *Roman* Interest, to him, and his Sons; and to be obedient to the Laws, which now he went about to break. He shewed him, that an Edict had been made by *Theodosius*, whereby Schismatics were prohibited to hold any Meetings within the City: and he used many persuasions to *Arcadius*, to maintain what his Father therein had done. But however this stopped his mouth for the present, and the Bishop got the better as to the Church; *Gaines* consulted how to break his Oath, and destroy the City: at what time a Comet of a great Magnitude appeared over it, and seemed to predict the danger it was in, by its unusual Magnitude, streaming forth almost to the ground, and making such a terrible sight as formerly was thought not to have been seen. He first attempted to seize upon the Wealth of the Bankers, and thence raise a great Sum of Money; but his Design was some way discovered; and they hid their Gold, and no longer exposed it to view upon their Tables: whereupon he sent a Party of *Barbarians* by night to fire the Palace. They, when they came thither, were struck with such a fear, that they returned without any performance, affirming they had seen a vast number of armed Men, terrible to behold, for the vastness of their Bodies, and they concluded it was an Army verily brought into the City. But he knowing there was no such Army to be come by, gave them no credit; and the next night after sent others, who relating the same thing, he went himself, and was a Spectator of the fight; at which he concluded, that there was indeed a number of Men which guarded the Court in the night time, and in the day concealed themselves. He counterfeited himself to be vexed by a Spirit, and as intending therein to pray, seized on a Church built by the late *Theodosius* to the Honour of *John Baptist*, in the *Hebdomus*, seven Miles from the City. Of the *Barbarians*, some continued in *Constantinople*, others went out with him, and privily conveyed out their Weapons in Waggon's wont to be used by Women, which, when the Watch discovered, they endeavoured to hinder; but the *Barbarians* fell on them, and put them to the Sword. Immediately the whole City was in an uproar, death seeming now to stand at every Man's Door; yet it continued safe, the Gates being once shut, and well fortified. The Emperour in the nick of time proclaimed *Gaines* Traitor, and commanded, that the *Barbarians* which were left within the Walls should be slain. The Soldiers accordingly fell to work with them, and killed most; and they burnt the Church of the *Goths*, wherein they that were assembled perished by fire, the Gates being so fast shut upon them, that they had no way to escape.

Socrumen
c. 4.

He attempts to
seize on *Con-*
stantinople in
vain.

112. *Gaines* hearing that his Complices, he had left behind him in the City, were put to the Sword; and perceiving, that his treacherous Design was come to nothing, left his hypocritical Prayers, and got him to the Coasts of *Thrace*, where he filled the Country with Fire and Slaughters. One writes now, that *Chrysostom*, the Bishop, was prevailed with to go and persuade him to desist from these bloody courses; and how *Gaines* met him at a good distance, notwithstanding their former disagreement, kissed his hands, and made his Children embrace his Knees; but

Theodoret. l. 5
c. 33.

but what became of this Message, he saith not. Whether he was sent at this very time or not, it is evident enough, that he took some Journey to procure, if he could, the relief of the oppressed, and possibly the release of *Aurelian*, the Consul, and *Saturninus* from Banishment; for so much he expresseth himself in a certain Homily, the Title whereof is, *The Homily of S. John Chrysostom, when Saturninus and Aurelianus were driven into exile, and Gaines had left the City*. Therein he tells his Auditory, That he had been silent a long time, but not through idleness, or any fault of his own; but he had been abroad, composing Tumults, and laying such Storms as had risen; and endeavouring to bring into the Haven such as were cruelly tossed, and endangered by Tempests. This being done, he was now returned to them who continued in safe harbour, or ran their course in great tranquility. To them he went to lay the Storm; and he was now returned, that they at home might have no such Tempest arise. However, *Gaines* being come into the *Cheronefus*, as *Socrates* writes, resolved to pass thence over to *Lampsacus*, to reduce the Eastern Parts under his power. But the Emperour having sent away Forces to oppose him both by Sea and by Land, a miraculous thing happened by God's providence. For, the *Barbarians*, wanting Ships, made use of Boats they made for the purpose; and in them they attempted to pass over, just as the *Roman* Fleet happened to come by. The wind blew very hard, and the *Romans* easily passed over; but the greatest part of the *Barbarians* was drowned, together with their Horses, being grievously distressed by the Tempest; and some of the *Romans* also, miscarried. As for *Gaines*, he took another course through *Thrace*, and falling amongst other Forces of the *Romans*, perished with those *Barbarians* that were with him. These things *Socrates* having related, refers us to certain Authors, which I wish it were as easie now to find, as it was to him to mention. He bids us, if we would know accurately the History of this War, to read the Poem called *Gaines* of *Eusebius Scholasticus*; who at the same time was the Scholar of *Troilus*, the Shophist; and being an eye-witness, described it in four Books, written in Heroick Verse: a Poem which was in great esteem, the matter being so fresh in memory. After him *Ammonius* the Poet treated of the same Argument in Verse; and in the eleventh Consulship of *Theodosius junior*, which he bore together with *Fauftus*, recited it in the presence of the Emperour, with great applause.

113. But such is the account we have of this matter from such Writers, as the injury of time hath left unto us. To be sure, so great a Disturbance there was this year at *Constantinople*, and in the *East*, that we find but two Constitutions of *Arcadius* directed to his Officers, whereof the one was at the beginning, and the other at the end of it. The former was a Rescript directed to *Emilianus* the *Magister Officiorum*, who had moved him in behalf of the *Fabricenses*, or them that forged Arms at *Antioch*. He tells him, that following his suggestion, he had commanded that all trouble should be removed from their Houses; that he had written his Sacred Letters concerning this matter to the Illustrious, the *Comes*, and *Magister Militum* through the *East*; that the Houses of the *Fabricenses* of *Antioch* should be excused from lodging any persons, except he and his Court happened to be there, and not only theirs, but such as belonged to the *Forges* of the other Cities, by which we are to understand those of *Damascus* in *Phanicia*, of *Adeffa* in *Osfroena*, and of *Irenopolis* in *Cilicia*, which the *Notitia Imperii* sets under the Disposition of the *Magister Officiorum*. The other Constitution is directed to *Casarius* the *Præfectus Prætoris* of the *East*; and it is concerning the *Assessors*, or Assistants of Judges. For such the Judges or Governours of Provinces were wont to have by them, ever since the days of *Augustus*, who thought fit, that they, being often no Lawyers themselves, should have those that were learned in the Laws, to assist and inform them in their Business. Now, as none could ordinarily, and without the especial license of the Prince, be Governours or Judges in his own Province, for fear of seditious practises, as sometimes it happened; or for that they might be overswayed in Judicature by the passions of Hatred or Affection: so *Pescennius Niger* formerly ordained, that none should be an *Assessor* in his own Province, and that for the same reason. But it happening sometimes, that the Governours being sent in haste to the exercise of their Jurisdiction, could not procure Lawyers out of another Province, or from *Berytus*, which in the *East* was the famous Nursery of them; therefore *Arcadius*, it being indifferently permitted before, gives them leave to have *Assessors* of the same Province, but only for the first four Months; which time he thinks sufficient, wherein to provide themselves elsewhere.

Lib. 6. c. 2.

1. 8. de Mæst. Cod. Th. Dat. 11. Cal. Feb. Const. & l. a. Cod. Just. cod. tit. m. d. h. n. interpolata.

L. 1. de Assess. ribus dom. sic. & Cancellar. Cod. Th. lib. 1. tit. 12. Dat. 6. Id. Decem. Ab. l. a. Cod. Just.

Sect. 1.

Honorius pre-
serves the Prae-
toria for the
Governors of
Provinces.And his own
Lands from
being entred.He takes care
for reinfor-
cing the Ar-
my.

114. The *Quæstor* of *Honorius* in the West had better leisure to employ his Pen. Though all things were in repose, as *Claudian* tells us, for the Honour of the Consul *Stilicho*, (which others think they have cause not fully to believe, the Barbarous Nations beginning this very year to draw down into the Western Provinces) yet however the late difficulties and fears for the future, required such care and circumspection, that the Roads and other places throughout the Provinces, were constantly full of persons of employment and quality, who were sent to provide against any Disasters that might befall them. Hereupon, as we have already seen in the East, complaints were made about their too free and bold taking up of Quarters, or Lodgings; and the first Law made by *Honorius* this Year, at least now extant, was made upon complaint of the Ordinary Judges of the Provinces (as *Præsidents*) that they were justled out of their *Prætoria* or publick Houses, by greater Ministers; as the Illustrious, or others, who had occasion to travel their ways. This grievance was especially in *Gall*, to the *Præfect* whereof, the Emperour now wrote, commanding him to give notice to all such Ministers, that they abstained from the *Prætoria* of the Ordinary Judges, when they themselves there resided: otherwise permitting publick persons to make use of these Houses which were destinated to publick service; for in the Summer time they were in their Circuits or Visitations; and possibly in one Country there might be several of these *Prætoria*. To be sure, the Houses belonging to the Emperour's Domain, were secured from the *Metatus*, or liberty of Quarter; and, as those he formerly possessed, so by the same reason, such as of new, fell, or accrued to him by reason of forfeiture for Treason, or other respects. Yet was he forced by an Edict sent to *Pompeianus*, the *Proconsul* of *Africk*, to protect the Lands which had belonged to *Gildo* and his Complices, and were lately confiscated and fallen into his hands, by imposing a Fine of five pounds of Gold upon him that should enter upon them with purpose to stay, or make any Abode therein.

115. The condition of the times, wherein there was always cause to fear Incursions from the Barbarous Nations, required, that the Armies should be reinforced, and kept in as good Discipline as might be. For this purpose *Stilicho* procured a Rescript to be directed to himself for restraining the liberty now taken of obtaining the privilege of a *Veterane* Soldier, by those who had no right nor title. *Honorius*, in his Rescript, declares, That most *Veteranes* were so made, by vertue of Testimonials fraudulently got; having, indeed, never been Soldiers: and some, when but newly entred, in the flower of their Age, went away from their Colours. To redress this mischief, he commands, that every *Latus Alamannus* (of which we lately spoke) wandring *Sarmatian*, Son of a *Veterane* Soldier, or obnoxious to some Body or Society that belongs to the Legions; be drawn out of his Retirement, and embodied in the Army, notwithstanding any Testimonial obtained from the *Protectors*, or persons of any other Dignity. Moreover, that such as had received any Mission, or been discharged from Service, be drawn back again to the Camp; and no excuse be allowed, except it be of Old Age, Infirmary of Body, or Wounds. And, because many were found, either before their entering into Military Service, or afterwards, before it was duly finished; to lie hid under pretence of pious Religion, and to defend themselves; not so much by observation of Religious Worship, as the love of Idleness and Sottishness, covered under the name of Clerks, and busied in the unlucky Obsequies of the Dead: He will have none to enjoy any benefit of such excuse, except any be so broken with Age, weak in his Members, or small and deformed in his Stature; that he be unworthy the Society of Valiant Men. But he owns at last, that one, having passed through all the Duties belonging to the *Decuriones*, the *Præmularii*, *Collegiati*, and other Companies, may be excused from the *Militia* of the Camp. There was another Custom in the Armies at this time; which, however formerly allowed of, was found to tend to the Discouragement of good Soldiers, if to no other worse effect: and that was, of changing or transferring Men, from one *Numerus*, or Regiment, to another. To obviate this, *Stilicho* procured another Rescript, directed to him as *Magister Militum* in *Gall*; wherein the Emperour declares, That he will not have these Translations made, contrary to the publick Utility. He will have, therefore, all *Comites* and *Duces*, that have any Military Commands, to take notice, that it shall be unlawful, not only to make such Translation from the *Comitatenses* and *Palatini*, to other *Numeri*; but also, from those called *Pseudo-Comitatenses*, the *Riparienses*, *Castriciani*, or the rest: giving this reason; Because the Augmentation of Honour ought not to proceed from Ambition, but from Labour and Diligence. If any transgress this Command, for every Soldier, he shall pay a pound of Gold.

116. The

A.
4L. 6. de Mi
Cod. Th. D.
Cul. F. m.
Cod. Jus
tit.L. 7. Cod.
Jus. D. m. 6
Id. Jus. D.
Cod. Jus.L. 12. de
Vaniis, Co
Dat. 3. C.De Letiv
le Gotoy
hil.L. ult. de
litari, Cod
& L. 14. C
Jus. cod.
Dat. 14. C
Ap.

ieft. r.
rectors sent
o the Pro-
ces to bring
k Straglers
their Co-
re.

116. The former Law of *Honorius* did so little good for the bringing back of Straglers to their Colours, that the *Protectors* were forced to be sent down into *Gall*, to make Inquisition after the Sons of *Veteranes*; those they called *Vagi*, or Wanderers, from one Seat where they were obnoxious to the *Militia*, to another; and those, who, by reason of their Original, were tied to the Service. This we find by another Edict, directed, this Summer, to *Vincentius*, the *Præfēt* of *Gall*; whereby the Emperor takes care, that those *Protectors*, or *Inspectors*, be intent upon the business, about which they were sent; and offer no injury to the Possessors of the Lands. " But, not only did Soldiers now stray from their Stations; but so great were the Tumults, Fears and Disorders of these times, that the Inhabitants, and such as were imbodyed into Cities, Towns and Boroughs, ran away from their Houses and Charges; to the great disparagement, and loss of the places where they once lived. Some betook themselves to a Country Life; living secretly, and out of the way, in the Services, and Tillage of Great Men: Others were content to become a sort of Villains; and to marry the Slaves of those, in whose Grounds they could hide themselves: And some wandered up and down, they knew not well whither. What the reason of this great and extravagant disorder should be in particular, we cannot well guess: Some attribute it to the Injustice and Oppression of Lords and Corporations; who treated these men so ill, as to force them to run away. But, when ever the Ruin of a Nation draws near, Vice abounds, and the minds of Men are possessed with Giddiness and Extravagancy; betraying it self, sometimes in one Symptome, otherwhiles in another. The Emperor, informed hereof, took notice of what tended to the disgrace of the Government, in a large Constitution, directed, also, to *Vincentius*, the *Præfēt* of *Gall*; whereby he commands, That where ever they can be found; such persons be brought back, without the admission of any excuse. As for their Sons that were born before forty Years, he will not have them medled with: But such as they had begot within that time, shall be divided betwixt the Lords, whose *She-Slaves* or Villains they had married, and the Bodies or Companies (called *Collegia*) which they had deserted; and to which, now, they were to be drawn back. "

A. D.
400.

L. 10. de Deser-
tionibus, Cod. Th.
Dat. 15. Cal.
Jun.

abitants of
owns alio re-
led.

117. Where the publick Benefit was concerned, he would allow of no such Prescription; but thought fit to admit of some temper in matters relating to himself or private Men: So that if any pretended to be a Villain, or perpetual Servant; had been in the nature of a *Curialis*, a *Collegiate*, or *Burgarius*, for thirty years; though the Domain of the Prince, or any private Person, challenged him, their Claim should be extinguished. And because often it happened that the Members of Bodies or Companies ran away by Connivence of the Chief Officers, he strictly charges the *Primates* and *Defensores* to look that none escape; imposing Banishment upon such as should, out of favour, connive at such Escapes. " Further, to put a stop to the boldness of Villains in running from their Lords; he ordains, That such Lords as were *Bona fidei possessores*, should have the benefit of the *Interdictum Utrubi*, for restoring such a Fugitive immediately into his possession, and the Title to be proved afterwards; as was usually, in case of Forcible Entries, or things taken away by violence. " At this time one *Macilianus* arrived at Court; being sent on a Message out of *Africk*, to procure a Redress of certain Grievances. What they were we may well understand from the Constitution of Redress it self, which he carried back to *Pompeianus* the *Proconsul*; divided now according to the several matters, into several Laws, and under divers Titles. One thing he had in Commission to complain of, was, That the Sons of *Pagan* Priests were compelled to succeed their Fathers in that troublesome and superstitious Employment; which the Emperor, in his Answer, judges unreasonable, and prohibits. He complained also of the great oppression of the poor Provincials in reference to Tributes; which happened through the iniquity of the Officers partly, and partly through the Inequality of the Distribution; the richer Men going scotfree, when the Poor were harassed with Payments. Particularly, there were very wealthy persons, that had vast Sums of Money at Interest, and great Incomes thereby, and paid nothing for them: In Answer to which, *Honorius* returns, That it is fit that all Negotiators or Traffickers pay that Contribution called *Lustralis Pensio*, or *Collatio*; and not only those who exercise Commerce in Cities and Territories, but those also, who have daily Incomes by the way of Usury. Esteeming that with Money to be as much Traffick and Commerce, even as the ordinary way of Merchandizes. "

L. L. 1. 2. 3. De
bis qui conditi-
one p. 1. m.
religiosi est.
Cod. Th. lib. 12.
tit. 18. De
cal. Jul. de
a Cod. Jul.

ilianus
ings several
mplains
it of Africk.

L. un. de
Cod. Th. lib. 4.
tit. 23. De
de Agriculis,
etc. Cod. Just.

Which Honori-
endeavours
satisfie.

L. 156. de Decu-
rationibus, Cod.
Th. lib. 12.
tit. 18. De
cal. Jul. Abell a
Cod. Just.

L. 1. de
qui studentes
sancti, et
in dies singulas
pecunie accessi-
one laetantur.
L. 18. de Injura
li collatione,
Cod. Th.

118. Another thing, as to the inequality of burthens was complained of: Which was, that the *Veterane*, or *Emerite* Soldiers, coming into possession of Lands that

Sect. 1.

were subject and liable to the *Census*, pretended an Immunity due to them; and avoided the Charge. This he also disapproves of; and commands, that they be compelled to make due Payment as soon as they come to such Lands. But the Provincials were miserably abused by the *Susceptors*, *Tabularii* and *Compulsors*, Officers employed in the receiving and exacting of the Revenue; who, being in *Africk*, removed from the Emperor's eye, beyond the Seas, took the greater liberty to play the Knaves. They had got a trick, not to accept of the *Apoche*, or Acquittances, which had been given at the payment of the Tax: And that they might the better bear down those that produced them, were wont to send such as wrote them out of the way. For Redress of this, the Emperor commands, That the Clerks that write the *Apoche*, or Discharges, be not changed for one Year; that so they may be ready to own their Hands; except they be found to be faulty. Then, he will have every four Months Breives to be sent, with the Acquittances, to the *Tabularii*; that they may be compared together, to see whether the Receipts do answer the Tax-Books, and the same Payment may not be exacted twice. And, in case any *Susceptor*, or *Tabularius*, be convicted of Fraud by any Possessor of Lands; he forbids that he be ever again admitted to the Employment, though he produce a Rescript clandestinely obtained. In like manner, if a *Compulsor* be found to oppress the people, by compelling them to pay more than their due; he commands, that the severity of the Laws be executed upon him: But this not having the due effect, twelve Years after he ordained by another Law, on purpose directed to the *Proconsul*, that this sort of Officer should be quite banished out of the Provinces of *Africk*. *Anastasius* the Emperor, afterward, so far admitted of *Compulsors*, as to have them execute their Office, not upon the Provincials, but the Judges themselves, and their Officers: but *Justinian*, at length, took them quite away. As to *Honorius*, he further ordained, That none of the *Numerarii*, *Tabularii*, *Aetuaries*, or such as were employed in gathering the Revenue, should be admitted the second time to be Principals of the Office, under pain of Deportation; lest they should too much improve their Skill and Experience for their own Advantages.

A. D.
400.L. 28. de Ann.
na & Tribu.
Cod. Th.L. 27. de Sa.
pioribus, &
Cod. Th.L. 1. de Sa.
pioribus, &
Cod. Th.L. 2. de Sa.
pioribus, &
Cod. Th.Officers in the
Collection of
the Revenue,
restrained
from oppres-
sing the peo-
ple.An Act of In-
dulgence to
Prisoners.Precedence
determined
betwixt Con-
suls and Treasurers of Dio-
ceses.Houses and
Grounds in
Cities subject-
ed to Taxes.And with
good reason.

119. He continued at *Milan* till toward *August*, and then took a Progress to *Ravenna*, *Brixia* and *Aquileia*; wherein he spent some three Months. At *Ravenna* he granted out an Edict of Indulgence, whereby should be set at liberty all persons that were banished, condemned to the Islands, or to the Mines; so as they might freely return to their own homes, Contumacious Persons excepted, who had not obeyed the Sentences of the Judges, but refused to go to the places to which they were confined. Thus kind was he to these Criminals, whether out of respect to filling his Army, or the Companies of Cities and Corporations, by his Edict directed to *Romulus* as *Praefectus Praetorio*. From *Brixia* he sent Directions to *Flavianus*, the *Praefect* of *Rome*, concerning Appeals in Criminal Causes from the *Vicar* of the City; That in matters of Consequence, they should be as formerly, to the Prince himself; but in smaller, or rather, pretended Crimes, to the *Praefect*. Lying at *Aquileia*, he determined a matter of Precedence; of which there was a kind of doubt and controversy betwixt those who had executed the Office of *Consularis*, and the *Comites*, which belonged to the Tributes and Treasuries throughout the Diocesses of *Italy* and *Gall*: For every Diocess had a *Comes Largitionum* of their own; and they were all subject, and to answer to the great Treasurer, the Illustrious *Comes Sacrarum Largitionum*, they themselves being but of the Degree of *Perfectissimus*. In like manner, as there were the Special *Comites Largitionum*; so there were Special, or Under, *Comites Rei Privatae*. Now, the Emperor determines the point in favour of the *Consulares*; giving them precedence before all such *Comites Italicorum*, and *Gallicianorum*, as he calls them; and with good reason alledged: For, saith he, *its no small Title of Merits, to rule and govern Provinces*. Ordinary Power, with Jurisdiction, though the Province subject, of lesser extent, was more honourable than an Undercharge about the Revenue, though diffused to a larger Compass. But now we are speaking of the Revenue, a considerable Accident happened as to it, about this very time. Formerly the Houses and Grounds lying in Cities were not ordinarily, nor in course, subject to any Tax or Collation. But now, urged by the necessity of Affairs, *Honorius* thought fit to subject them to an extraordinary Imposition; but with a distinction betwixt those that were but of little Income, and them that were of larger Rent. The later, he commands, shall pay one Years value in three; and the other to go scotfree, being free from all Tax and Incumbrance.

120. And great reason and equity there was for this: that, in the distress of the State

L. 10. de In-
criminatione,
Th. Dat. 8. Id.
Aug. An.
Cod. Just. a.
temporariis.L. 61. de An-
tationibus,
Th. Dat. 14. Id.
Septemb. An.
Cod. Just.Ab his sunt
versu Praef.
vel Praepo-
situm, &
quibus
Imperii agi-L. un. de Cor-
laribus &
fidibus, Cod.
lib. 4. tit. 1.
Dat. 3. Cal.
ad Messid.
P. P. Absolut.unum Anni
hoc est totus
Indictionis.

Sect. 1.

omitted ex-
pced.the *Cursus*
Publicus regu-
led.

State especially, and the dangers of the Commonwealth, wherein they were as much concerned as any, the Possessions of Cities should contribute toward the publick Charge as well as the others lying in the Country; they bringing in as much profit, and being managed with less Charge. Such were the *Horrea*, or Store-houses, wherein the *Romans* were wont to lay up their Merchandise; as Corn, Wine, and other Provisions; and let them out to great advantage. And so they did their private Baths; their Shops, in which was great Trade driven; their dwelling Houses; their *Canacula*, or Buildings, raised on purpose for Entertainment; and their Salt-pits. All these he subjects to this Payment in all Cities, *Rome* excepted; which terming by the Title of *Urbs Aeternabilis*, he confesseth, that the reverence of her Majesty doth excuse. Neither will he have the *Mancipes* of the Baths or Salt-pits, which served for the use of the *Roman* People, subject to this Payment; as being obnoxious to the finding of Wood, and other Dues: Nor such as farmed Salt-pits; who were bound to pay, after the usual manner, other Taxes for what they held. From what he ordains concerning the third Year, it is probable that the Leases of private Houses, as well as of publick, were, in this Age, usually let for no more than three Years: But, the great Expence of War, and providing against the continually feared Inroads of the Barbarous Nations, put *Honorius* upon more than ordinary Courses of raising Money; and also, upon quickening the Payment of it: in which some were so backward, that they would neglect to pay their Tributes for above a Twelve-month together. He ordered at the latter end of the Year, *Salvinus*, his *Comes Rei Privatae*, to exact what was due from rich Men, and such as were able to pay: and besides that, fourfold of the Value, as a Mulct. The meaner sort, having some excuse for their Poverty, he subjects not to the same Censure; though he saith, they deserved to pay one half for their backwardness. The *Cursus Publicus* being again out of order, by several Laws he now endeavoured to reform it. Some without Licence would make use of it, whom he commands the ordinary Judge, to fine a pound of Gold for every *Paraveredus* and *Parangaria* so used; threatening the *Curators*, or *Defensors*, and the *Principals* of Cities, if such were not apprehended, and sent to the Judges; who, if they neglected to prosecute them, they and their Offices should incur forfeiture of the double value. Provisions for Cartel were so dear, that such Beasts as served in the *Cursus* were almost starved; and the Country-man, that found them not in *Specie*, but in Money, was much oppressed in the Contribution. This Inconvenience he also commanded *Messala* to redress.

121. *Vicars* of Diocesses had been prohibited by several Laws to take upon them to grant Licenses for the use of the *Cursus*, except the Necessities of the State required it. But now, *Macrobius*, the *Vicar* of *Spain*, made bold to break the Rule; and for that, had a Mulct imposed upon him for his Temerity: Which, that others might avoid, the Emperor commands *Vincentius*, the *Præfæctus Prætorio* of *Gall*, and Successor of *Theodorus*, to give warning to all the *Vicars* of his District. And now, being still called upon to reform the Officers of the Revenue, who had least need to vex and harass the poor Provincials at this time, which required more than ordinary Supplies; as he had ordered *Messala*, to see that the *Mancipes* which belonged to the *Cursus Publicus*, should not vex them, by exacting more Money than was needful, under pretence, that Provender was dearer than before: So he gave him Command to control the *Discussors* and *Apparitors* in a course they took, to make prey of them, by requiring a sight of such Acquittances as they had lost, or at present could not be found; and for want of producing them, come upon them again; and make them pay the Summ the second time: a thing sometimes done also by the Governors of Provinces; who pretended ignorance of what was paid during the Administration of their Predecessors. Now, for as much as when an Acquittance was received, it was to be brought to the *Tabularius*; who was to enter it into the Books of Accounts, and to cross the Books of the Taxes; *Honorius* declares, That if it appear from the Books that the Money was so paid, it shall be enough, though the Acquittance itself cannot be produced. Another Greivance was, that such of the *Decuriones*, or of other Bodies, as hired publick Grounds or Houses, having formerly belonged to the Temples; or which appertained to the *Res Privata* of the Prince, or to the Commonwealth; and held them by perpetual Right; were turned out of them by the Officers. He commands, That they be suffered, quietly to possess and enjoy them, without admitting of new Tenants; under pain of the *Palatine* Offices, admitting of such Alterations, incurring a Fine of ten pounds of Gold. But the *Provincials* were injurious and troublesome, one to another. When a Man was sued for any Lands or Possessions, he would pre-

A. D.
400.L. 3. de Collatio-
ne donatarum,
Cod. Th. lib. 11.
tit. 20. Dat. 3.
Non. Octobr. ad
Hadrianum,
P. P.L. 27. de Annotæ
& Tributis, Cod.
Th. Dat. Id. Nov.
Rav.L. 59. de *Cursu*
Publico, Cod. Th.
Dat. ad *Messa-*
lam, P. P. 15.
Cal. Dec. Abest. a
Cod. Just.L. 60. ejusd. tit.
& L. 18. Cod.
Just. ad. tit.L. 51. ejusd. tit.
Cod. Th. Dat. 5.
Id. Dec. Abest. a
Cod. Just. ut
temporaria.L. 2. de *Discuf-*
soribus, Cod. Th.
lib. 11. tit. 26.
& L. 2. Cod.
Just. eod. tit.
Dat. 5. Cal. Dec.L. 5. de Locatio-
ne Fund. juris
Emphit. Cod. Th.
Abest. a Cod.
Just.

tend,

Sec. 1. tend, that those Lands belonged to some great Person ; and set up the Title, or Name of this Person upon them (as the custom was, for the Owner to have his Title upon his Lands or Houses ;) thereby to terrifie the Plaintiff, and affright him with thoughts of going to Suit with so great an Adversary. This the Emperor so far distates, as to inflict Infamy upon any person, allowing his Title, or Name, so to be used : And besides a Forfeiture of the thing, commands him that doth it, to be beaten with the *Plumbata*, or Plummets, wherewith Malefactors were wont to be chastised. “

A. D.
400.

*L. un. de His.
potent nom.
lite praeind
Cod. Th. lib.
tit. 14. c.
L. un. Cod. J
cod. tit.*

Begging of
Gaius his Es-
tate restrain-
ed.

122. The Year CCCC I, of our Lord, had *Vincentius* and *Fravitta* for Consuls. *Fravitta*, or *Fraintus*, was made Consul for the good Service he performed against *Gaius* : Who, being declared a publick Enemy, his Estate, and those of his partakers, were confiscated, according to the Custom in such Cases. And now flocked Petitioners and Beggars, as fast as Crows about a Carcase ; to repress the Voracity of whom, *Arcadius* published an Edict, directed to *Studius*, his *Comes Rei Privatae* ; whereby he absolutely prohibited the begging of any Estates confiscated, within two Years from the Confiscation, or the Deportation of the Party. One reason for this he gives, that he may have time to consider ; and possibly (as his Nature, he saith, is) to mollifie the hard fortune of the condemned person by his Imperial Humanity. Another, that within that term, such Estates would seem rather to belong to other Men than to the Prince, the memory of their former Owners being still fresh ; so that he should seem to give away what was scarcely his own : an Argument drawn from Modesty, as the other from Humanity. If any be so bold as to ask any Estates before two Years be expired, he declares, such Petition shall make the thing ungrantable to that person. “ Whatever delight this brought to distressed persons, great joy happened at Court in the beginning of *April*, or the fourth before the *Ides* thereof, when the Empress was brought to Bed of a Son ; whom they named after his Grandfather, *Theodosius*. The same Year there happened not much of Action, either in the Eastern or Western Parts ; though *Alarich*, having all this while layen in the Bowels of the Empire, harassed *Epirus* and *Pannonia* at his pleasure ; and now, had a longing desire to be in *Italy*. As *Arcadius* was not much molested by fears of Hostility, so as to disturb him in the pleasure he took in his young Son ; so, neither did his *Quaestor* hinder much his Diversion, by requiring Audience in reference to the signing of Edicts or Laws. For we find but two more made by him this Year : whereof, one concerning Immunity from Burthens, granted by him, to such as had been *Proximi* in the *Scrinia*, or *Comites Depositionum* ; and now were admitted to be Senators : Whereas the Charges of the Senators were many and great ; as the *Glebalis Collatio*, and other Voluntary Payments upon extraordinary occasion ; as, after Victory, the Destruction of a Tyrant, the Celebration of the *Quinquennialia*, of *Decanalia* of Princes, or the like : He gives Order to *Clearchus*, the *Præfect* of *Constantinople*, “ That these, his *Senators Allecti*, be freed from all Obligations to them ; and only pay the seven *Solidi* yearly ; which were required of the poorer sort of Senators, “ at this time ; though afterward, wholly remitted.

A. D.
401

*Vincentio
Fravitta.
Conf.*

*L. 17. de Es
Proscriptor
Cod. Th. Da
Cal. Febr.*

Proximi and o-
thers that were
made Senators
freed from
Burthens.

*L. 12. de P
mis. c. 1.
Dat. prid.
Septemb.*

Honorius sets
the Rate of
Horses in A-

123. *Honorius* was also so much at leisure from War, as to make preparations for it, which he had reason to apprehend. As his Brother at *Constantinople*, he continued at *Milan* till the latter end of the Year ; and then went to *Altinum*. At *Milan* he was put in mind of the state and condition of *Africk* ; which, as it had been assaulted by Tyrants and Rovers, upon the Borders ; so still presented matter to verrifie the old Proverb, That it always afforded some new thing ; some Monster, something of Disturbance and Innovation. For repressing these Disorders, and maintaining their own Quiet and Repose, the *Provincials* were wont to supply the Government, as with other things, with Horses, or Money paid in lieu thereof. It being now again questioned, at what Rate an Horse should be set ; *Honorius*, by his Rescript directed to *Pompeianus*, the *Proconsul*, sets the price at twenty *Solidi* ; out of which, seven he will have allowed to the Soldiers, for finding themselves Horses ; this being an extraordinary Imposition. And for the ordinary way of Contribution, he afterwards gave order, that payment should be made according to the Wealth of the Provinces, or the goodness of the Horses : And that the *Comites Stabuli* should receive two *Solidi* for their Fees, and, as had been desired by *Gaudentius*, the *Comes* of *Africk*, the Soldiers seven *Solidi* for their Horses. “ There was now discovered a Cheat, in that Country frequently committed by the *Susceptors*, or Receivers of the *Annona*, or Provisions : who were wont to give these Provisions, or Money, before-hand, as was pretended, to the Soldiers, and take their Acquittances : Whereby it came to pass, that the Soldier, hving spent all together,

*Africa h.
aliquid ap
tat novi.*

*L. L. 2, 3. d
quorum c.
tione, Cod.
lib. 11. tit
Abjunct a
Just.*

Removes a
Cheat of the
Susceptors.

Sect. 1.

gether, and lived unfrugally for some time; then fell in want, and deserted the Service; and that in the Provinces of *Numidia* and *Mauritania*, which were upon the Borders, and required the care and diligence of Military Men in an especial manner. To the maintenance of these Provinces, they of *Africa Proconsularis* were wont to contribute: And therefore, the Emperor commands *Pompeianus*, That within his Jurisdiction, no such Money be given before-hand; nor any allowed, but what appeared from the Books of Accounts. And all such Acquittances received from the Soldiers, he declares, for the time to come, shall be null and void. And because the Governors of Provinces were often negligent of collecting the Revenue, which was part of their Charge, under the *Præfects*: By a particular Law he now enacted, That such as were found so to be, should return all the Profits and Advantages they had received, during their Administration.

A. D.

401.

L. 28. de Sum-
ptuibus, Cod. Th.
Dat. 4. Cal. Mart.
Abest a Cod.
Just.

L. 11. de Anno-
nis et Tributus,
Cod. Just. Dat. 3.
(pulsus, 13.)
Cal. Mart.

L. ult. de Tribu-
tus, Cod. Th. et
L. 3. Cod. Th.
end. tit. Dat. 6.
Cal. Apr.

L. 1. de Tribu-
tionibus, Cod. Th.
lib. 11. tit. 5.
Abest a Cod.
Just.

L. 29. de Anno-
nis et Tributus,
Cod. Th. Dat. 1.
Cal. Apr. 13.
Cod. Just.

L. 25. de evoca-
tione militum,
Annoni, Cod. Th.
et L. 11. Cod.
Just. collectio-
ne de L. 1. de ex-
actionibus, Cod.
Th.
L. 62. de curia
publica, Cod. Th.
Abest a Cod.
Just.

L. 3. de Tribu-
tionibus debito-
rum, Cod. Th. lib.
11. tit. 28. Dat.
7. Cal. Jul. Abest
a Cod. Just. et
temporaria.

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124. The *Tabularii*, or those that kept the Books of Tributes, of old, were publick Slaves; which Custom being grown obsolete, the Slaves, or Villains, (*Coloni*) of private persons, were often, now a days, employed in the Accounts. This was thought very indecent, and against the Commonwealth; and as such, *Honorius* prohibits it; whether these *Tabularii* be made for an whole Province, or a particular City: So as, whatever Lord, for the time to come, shall, knowingly, allow his Slave, or *Colonus*, to be thus employed, shall be answerable for all the Accounts managed by him; and such Slave or Villain shall be confiscated, or fall to the Exchequer. As for what was past, he doth not require that the Lords should give an Account; but yet, produce them, and have them forth-coming; that they may be subject to Examination by Torture. But, the effect of the care which was taken for *Africa* was, or, as it seemed, would be, this; that heavy Complaints still came over, of the burthens sustained by the Inhabitants; who, in particular, alledged, that they had paid more than was necessary in a late extraordinary Tax, for defraying the publick Charge. Once more, to redress, or prevent, their Grievances, *Honorius* commands *Pompeianus*, That if there be any Overplus, it be allowed at the next ordinary Payment that is to be made. And, to quiet their minds, he wrote to the *Provincials* of the *Proconsular* Province themselves; as also, to those of *Numidia*, *Byzacena* and *Tripolis*; assuring them, that he had with care and circumspection determined, that nothing more, in an extraordinary way, should be put upon them, but what the mere Necessities of the Army required: And if any thing more should happen, it should be allowed in the next Indiction. And as for the finding of Horses; they of *Numidia* should pay, instead of twenty, but eighteen *Solidi* for every Horse that was extraordinarily raised for the *Curators*, or such as had care of the Borders: and the *Byzaceni* and *Tripolitani* only fifteen; for those of *Numidia* were most excellent. Further, whereas they were much vexed, upon such occasions, by those called *Opinatores*; who were Soldiers sent to exact such extraordinary Tributes as were behind, as the *Options* exacted from the *Susceptors* the ordinary or Canonical Payments; he declares, that they shall call, and be urgent upon, the Judges and their Officers; so as the Tax be raised within the space of a Year. In the last place, He acknowledges he had found that many had oppressed them, by pressing Carriage-Beasts for *Paraveredi* and *Parengarie*: But, to prevent it, he ordains, that none, for the future, presume to use such liberty, but in publick Necessities; and when they are furnished with sufficient Licence for so doing.

125. With such difficulty of Affairs were the Provinces pressed at this time, that when there was most need of Contributions, there was greatest want of Money. And this caused the Emperor to publish, not an Order for an extraordinary Tax, but an Act of Grace, or Indulgence, for what was still due of the usual and ordinary Payment, out of the District of *Andromachus*, to whom the Edict is directed; who, by corruption of the Text, is called *Præfect* of the City; but must have been *Præfectus Prætorio*, and probably, of *Gall*. To him *Honorius* declares, That he remits whatever Payments belonged, either to the *Præfects*, or to the *Comes Legionum*, till the Year wherein he himself was *Consul*, or the fifteenth Indiction; which was the CCCLXXXVI Year of our Lord. And, to this purpose he commands, that the memory of all such Debts, till that time, be utterly abolished; whether remaining in the papers of the *Tabularii* of the Cities (who kept the Books of Arrears, as well as of the Payments due; and published them every four Months, for the Information of the Exactors; who could not, without their signification, come upon any that had not paid) or of the Offices of the Judges; or of the *Palatine* Offices belonging to the Highest Treasurer, by whom the said

Breives

Sect. 1.

Breives were made authentick; or in the hands of the *Discessores*, who were sent to leavy the Arrears. All these Accounts he commands to be burnt. From the Year of his first Consulship, till the Consulship of *Olybrius* and *Probinus*; or that wherein his Father died, and he came to be Emperor indeed, his pleasure is, that the Exaction of all Dues be suspended, till such time as the ordinary Judges can give an Account in Writing; as well of the condition of the Debtors, as of the Summ due; that thereupon he may consider, who, by reason of their Indigence, are fit to be indulged, and who are able to pay their full Dues; which might sufficiently appear from the Books of the *Minuscularu*, who were the Under-Collectors; and of the *Curiales* themselves. But, from the Consulship of *Olybrius* and *Probinus*, or the Ninth Indiction, to the Date of this Law, he will have the Collection of all Dues to be hastened; certain Farmers of the Revenue, and others, excepted. These are such as hired the Customs of the Havens and Ports; the *Publicans*, or *Telonaarii*, who received Toll in Markets; the *Præpositi Thefaurorum*, of which, there were four in *Gall*; the *Præpositi* of the *Baphia*, of which, the *Notitia Imperii* mentions nine in the West; being Work-houses destined to the dying of Purple, and two of them in *Gall*: the *Procurators* of the *Gynæcia*, of which we have already spoken; whereof, were sixteen in the West; and of these, six in *Gall*: And the *Procuratores Monetariorum*, or of the Mints; of which, the *Notitia* mentions six in the West, and three of them in *Gall*. To these, with others, whom the *Palatine* Officers, or those belonging to the Treasurer, kept in their Books (as the *Præpositi* of the *Argentarii*, or Silver-Smiths) he gives Plenary Indulgence; so as if they themselves at this time be deceased, yet their Heirs shall not be molested for their pretended Debts.

On the other he takes care for the preferring and paying the publick Revenue.

126. *Honorius* being so liberal to remit these Arrears, had the more reason to take all Legal Advantages for his own Supply. There was one *Marcharidus*, who had been Proscribed; probably, for having been one of the *Satellites* of *Gildo*, and had left his Goods in the hands of divers persons, who concealed them. The Emperor wrote to *Bathanarius*, the *Comes* of *Africk*; That seeing it had appeared upon Torture, that there were such concealed Goods; if any Concealer would within two Months time produce them, he should be pardoned for what was past; otherwise, his Estate be confiscated, and he himself undergo the pain of Deportation. To prevent the imbezilling of what belonged to his Domain, he now prohibited any *Palatine* Officer belonging to the *Comes Rei Privata*, either by himself or any other person, to farm, or hire, any Possessions appertaining to it: as by another Constitution, directed also to *Nestorius*, who now bare that Office; It is forbidden, that they buy any thing belonging to the Domain; as Gold, Silver, Slaves, or the like. And, that the Revenue might come in in convenient time, toward the latter end of the Year, he thought fit to quicken up the Vicars of Diocesses; on whom (under the *Præfects*) as he saith, lay the care of levying the whole Collation; and transmitting the Provisions, either to the publick Granaries, or where the Soldiers had want of them. He commands, That they press the Governors of Provinces to the Discharge of their Duties; that every Month they take diligent account, what, or how much, hath been brought in, or transmitted: And, that they animadvert upon such Governors as are found to be negligent of their duty. And, this he seems to have enacted, with design to reinforce the Authority of *Vicars*; against whom the ordinary Judges spurned at this time, and contemned them. *Fustinian*, yet afterward, did not think fit that they should have such an hand over them; and therefore, this Constitution is not put into his Code.

Arcadius gives the Title of Emperor to his young Son Theodosius.

127. For the Year CCCCII the two Emperors, *Arcadius* and *Honorius*, now, the fourth time, were *Consuls*. *Arcadius* continued at *Constantinople*, and *Honorius* at *Ravenna*; which, now, began to be an Imperial Seat; he having, in a manner, left *Milan*, and here fixed his Abode. And, now, the Laws we meet with, present us with the Names of three Emperors: for, in the beginning of this Year, and of *January*, did *Arcadius* give the Stile and Dignity of *Augustus* to his young Son, *Theodosius*; born, as we said, the fore-going Year. The times, now, began to be very ill; Clouds to gather, and Tempests to hover over the Western Parts; and, amongst Arms, Laws were put to silence, to such a measure, that we meet with but two made this Year; or one by each of the Brothers. But, having now got another Colleague, we must take notice, that before his promotion, were several others made by them, now extant: some without Date, or Consulship; and others without the Names of the Persons, to whom they were sent: Of which,

A. D.

401.

L. 18. de Bon. Proscriptorum Cod. Th. Dat. Id. Jul. Avest Cod. Just.

L. 6. de L. fund. Juv. lib. 1. phit. Cod. Th. Dat. 6. Cal. A. C. L. un. qui ad condit. Cod. Just.

L. un. de Off. vicarii, Cod. lib. 1. tit. 6. 3. Cal. Ost. Atino.

A. D.

402.

Arcadio, Honorio, A. A. Conf.

et. 1. it will be convenient, only to mention such as are most remarkable, and best fit our purpose. One of these allows to *Dominator*, the *Proconsul* of *Africa*, no fewer than four hundred *Apparitors*; by which we may see the Greatness and Splendor of that Command. Another, one hundred *Cohortales* to the *Presidents* of *Italy*. By another, the *Navicularii* are excused from all Tutorships, or the Office of Guardians; except it be of those of their own Body. Another of their Laws gives us to understand the condition of the *Coloni Censiti*, or Husband-men, paying Rent to their Lords; that they were no better than our Villains, once here in *England*; who had their Name from the *Villa*, or Village, which they tilled; as the *Coloni* also theirs, from the tilling of these Grounds or Villages. They declare by that Law, that, as those *Coloni* are Free Men in reference to others, to whom they owe no Tribute as Subjects: so, by reason of their obnoxiousness to their Lords, they seem to be bound by a kind of Slavery. The effect thereof was this; That they forbid that such *Coloni* be allowed to sue their Lords; they, and all they have belonging unto them, so, as to be alienated and sold when they please. It had often been formerly resolved, that such an one, without consent of his Lord, could not alienate his very *Peculium*: and the Laws gave them power of acquiring, but not of alienating any Goods. Seeing then, they were not *Sui Furis*, and acquired what they got for their Masters; *Arcadius* thinks it unreasonable in this Edict, directed to *Nebridius*, that they should be permitted to sue their Persons; yet, if they were over-burthened in their Payments, they had liberty to complain. And, in Criminal Causes, they might accuse them, and vindicate themselves; the Publick it self being concerned in such matters. But such Fugitives they were at this time, that several Laws were made for returning them to their owners. And the *Magistri Militum* were forbidden, as well to receive them into the Army, when Volunteers; as to compel them to the Military Service.

128. *Arcadius* derived an hereditary kindness for the City of *Constantinople*, from his Father. That *Annona*, or Provision of Bread which had been first given by *Constantine*, *Theodosius* enlarged, when he raised more Buildings, and increased the number of Houses; as we have seen from *Themistius*. The design of them both was, to encourage Inhabitants, and promote the enlargement of it: Yet as Corruptions still will be breaking in, upon the most laudable Constitutions; this Bread was transferred upon other persons than House-keepers: which Inconvenience had been seen by *Arcadius* six Years before: And he gave order to *Africanus*, the *Præfect*, to see, that all that had no Houses, should be deprived of it, except they would build within six Months. Yet, still, for all this, other sorts of persons drew it to themselves; which now caused the Emperor to appropriate to himself the granting of an Interest in this Provision: And he commands *Clearchus*, the present *Præfect*, that none be suffered to enjoy this privilege, but such as shall obtain it from himself immediately; or else, by Grant from the *Præfect* of the City, confirmed by his Imperial Authority. But we are interrupted. All the discourse at *Constantinople* now was, of *Alarich*, the *Goth*, his quitting of the more Eastern Provinces, and drawing down toward the West. He had, now, for a long time, harraided the Countries of *Epirus* and *Pannonia*, with other Regions: and his Success so animated him, that, thinking no Enterprize too great for him to undertake, he thought of no less than invading *Italy*; nay, of setting upon, and capturing the Lady and Mistress of the World her self. He told his Men, that it would become them, rather to get Kingdoms of their own, than to serve in the Dominions of others. That *Italy* was near at hand, a Country, not only, full of Wealth and Spoil; but very fit also, wherein to settle and inhabit. That he was resolved to invade it now that it was not at all fortified, or prepared against such an Attempt; and not thence to depart, till he had taken and rifled *Rome*: where innumerable Riches, raked out of the whole World, had, throughout so many Ages, been hoarded up. They, with a great noise, testified their Applause to what he said; and encouraged him to undertake the Expedition: Which, that he might with more Courage do, they chose him, not only their General, but their King; and prepared for the intended March.

129. He resolved to let Summer be past before he would set forward, that he might make War in *Italy* in Winter time; the rigour of which he & his *Goths* could well endure, as born in cold and remote parts. But he thought it would go very hard with the *Italians*, if forced to be in the Field, and endure the Hardships of War in that Season. Having got together a sufficient Army, consisting of *Goths*, *Huns*, *Alans*, and other Bar-

A. D.

402.

L. 2. de Appari-
toribus Procon-
sulis, Cod. Just.
lib. 12. tit. 58.L. 9. de Cohortan-
tibus, Cod. Just.
lib. 12. tit. 58.L. 24. de Excu-
sat. Tutor. Cod.
Just. lib. 5. tit.
62.Coloni etiam
Vicani dicun-
tur, in L. 2. de
Colonis Ilyrican-
is, Cod. Just.
lib. 11. tit. 52.Vicani & Vil-
lanus idem.L. 2. In quibus
causis Coloni
Censiti Dominos
accusare possint,
Cod. Just. lib. 11
tit. 49.L. 3. Qui mili-
tare possunt, Cod.
Just. lib. 12. tit.
34.L. L. 13. 14. de
Annonis Ci-
vibus, et. Cod.
Th. Ab. a Cod.
Just.ains re-
is the A-
in the
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antinople.ish resol-
to march
Italy.

SECT. I. barous Nations, he quitted the lower *Pannonia*, and marched strait into the upper Province, as far as *Noricum*, and the *Alpes*; which he easily made himself Master of; for, thence he drove *Ætius*, who commanded those Passages: And understanding that *Honorius*, the Emperor, was in *Liguria*, he passed through the Forest of *Tridentum*, or *Trent*; and toward the end of *August*, arrived in *Venetia*: Directing his Course toward *Addua*, he easily subdued the Cities of that Quarter. Having passed the River by a Bridge, with which he left a sufficient Power of Men to guard it, he marched for *Liguria*; and hastened to the River *Padus*, to come as speedily as might be, to *Flaſta*; where he heard that *Honorius*, at present, lay.

He makes for the place where he heard *Honorius* lay.

A.
40

S E C T. II.

The Second Step to the Ruin of the Empire.

From the first Invasion of Italy, By the Goths; to the first taking of Rome by that Barbarous People.

Containing the space of eight Years.

Upon the Rumor the people seized with Consternation.

TH E Rumour of the Invasion of *Italy*, though but yet designed, being spread abroad; incredible it is, with what Consternation, the minds of all Men there, were seized; as not accustomed to such Attempts. And, as fear is always ingenious, if not to invent, yet to patronize all pretended Omens; all strange things that of late time had happened, were very sadly rehearsed in discourse, by one Neighbour to another. One talked of several Monsters newly produced to the view and admiration of the World: and, according to his Ethnick Religion, discoursed of the Thunders lately heard, of what the *Sibyl-line* Prophecies foretold to happen about this time; and what ill luck the Birds by their inauspicate Voices and Gestures, did portend. Others, more Philosophically, argued the Empire to be in extreme danger, from the frequent passions of the Moon; which the Vulgar believed to proceed from other Causes, than the interposition of the Earth betwixt her and the Sun. They related, what strange Hailstones, of an unusual bigness they had seen: told how Bees, at an unreasonable time, attempted to swarm; and called to mind, how a Comet of extraordinary bigness and shape had lately appeared. But, above all, the strange sight of two Wolves most affected them: which, when the Emperor was riding abroad, presented themselves to his view, and had the courage to set upon the Company. Being received upon the points of Spears and Swords, they were easily dispatched; but when their bellies were opened, there appeared two hands of a Man; in one a Right, and in the other a Left; bloody, and with the fingers stretched out. This Prodigy they concluded, did threaten *Rome*, the Founder whereof was nourished by a Shee Wolf, though the Poet applies it to the Victory afterward obtained. They now began, he saith, to reckon and cast up the Age of the City; and they cut off part of the time, and anticipated the term of twelve hundred Years predicted by the Augurs. This, indeed, was but the *MCLV* year of the City; but the term now began to approach; and we shall find, that the guess happened to be very unlucky. But, whereas *Claudian* speaks, amongst other ill-boding things, of frequent Eclipses of the Moon; this Luminary, indeed, this year, was twice eclipsed, *viz.* on the first day of *June*, and on the twenty sixth of *November* following.

Vide C.
de Bell.
a. v. 227

Sed mali
terpres re
melius on
bebat
Auguriu
re via,
laque m
Nutricen
lupam, i
regno ju:
ri. a. v. 2
Territal
us lunæ

The People of *Rhetia* revolt.

2. To the terrors that arose from such like things, this real disadvantage was added; that the people inhabiting *Rhetia*, now, either excited by the *Goths*, or led thereto by their own inclination and hopes, revolted. *Stilicho*, to obviate all these mischiefs,

sect. 2.

mischiefs, had caused the Cities to be well fortified with Walls ; Especially Rome, of which, is still extant an old Inscription, in a Stone, erected to the memory of *Arcadius* and *Honorius*, For repairing the Walls, Gates and Towers of the Eternal City, with the Exportation of an Immense Quantity of Rubbish; from the Suggestion of the most Famous and Illustrious *Stilicho*, Miles & Magister utriusque Militie : This was done by the care of *A. Macrobius Longinianus*, Prefect of the City. *Stilicho* also took care for reducing the *Rhatians*. But, when *Alarich* was once entred *Italy*, Rome seemed to the Inhabitants to be already taken : the noise and terror flew as far as from *Gades*, to *Brittain*, and these, though most remote, seemed to tremble. The very Itch of Covetousness now seemed to abate, when the greater care of the very life and subsistence it self, was now most prevalent. They carried their Wealth aboard : The Caves in the remotest Rocks seemed, now, the best places of Retirement. *Sicily*, and other Islands, they thought of ; but *Sicily* was thought to be too near at hand : and, as the Poet expresseth it, it wished it self, if Nature would bear it, more remote ; and removed as far as into the *Ionian* Sea. In summ, such as lived in the more remote parts of *Italy*, thought of flying into *Sicily*, *Sardinia*, *Corsica*, or other places of Retirement, which the *Mediterranean* afforded : And such as dwelt in *Venetia*, and near to the *Adriatick* ; if necessity should compel them, resolved to evade the Storm, by betaking themselves into the little Islands of that Gulf. And the very Court of *Honorius* was in no less fear and desperation, when they perceived, that to them the *Barbarian* directed his Course ; urging and contending, that the safest place they could fly to, was *Gall*. Indeed, the Event was answerable fully, to the horror that siezed on their minds : for, though the *Barbarian*, at his Entrance, received some Rebuke ; yet *Italy*, which for so many Ages had been in Repose, and a Terror to all other Countries, from this time, forward, became the Subject of all sorts of Calamities, and never was at quiet ; but, for very many years, afforded Examples of strange and frequent Revolutions, of the Vicissitude and Inconstancy of Humane Affairs.

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Stilicho ap-
plies them,

3. The only man that gave any hopes of Comfort, and proved another *Stator* to the *Romans*, was *Stilicho* : who, if you believe *Claudian*, also proved both Prophet and Captain, as to their preservation from this one shock, so much apprehended. He shewed them, by the example of governing a Ship in a Tempest, that it was not now time to complain ; and, like Women, make a noise ; with which the Wind and Seas would not at all be appeased : but every one was to lay his hand to the Sails, to contribute to the well steering and guiding of the Ship, and the emptying out of those Waves it had received thorough Leaks. He told them, there was no such cause for despair, if, while the *Roman* Forces were employed in *Rhetia*, the *Goths* had perfidiously broken into the Country ; having learnt their way over the *Alpes* in the late Rebellious times ; wherein, indeed, *Alarich* served *Theodosius* with a Band of his Men, against *Eugenius* : And, as the Poet truly observes, the discord of the *Romans*, gave occasion to the War with the *Barbarians*. He further encouraged them, by the Fortune and Success, which ever had followed *Italy*, against the Attempts of Foreigners ; and convinced them, that he, in the capacity he stood, of Father, and Father in Law, had as fair a stake to lose as any of them : And, perceiving it was so by the Emperor his continuing with them, as it were an Hostage of Fate, they were the more satisfied. For, *Stilicho*, leaving *Honorius* and his Courtiers, instructed how best to make their Defence, took his way for *Rhetia* ; and passing, by Boat, the Lake *Larius*, in the hardest Winter went over the Mountains, covered with Snow and Ice : and easily, by the awe of his Presence and Voice, reduced the Revolters to their former Obedience : who, at the sight of him, were no otherwise affected, than a company of Servants are wont to be at their Master's returning : Who, imagining him dead, or at a distance, were up in all sorts of Jollity and Divertisements, and throwing the House out at the Windows. He convinced them what folly it was to take advantage at the War now made by the *Goths* ; as if *Rome* had not both Power, and Encouragement enough from former Experience, to suppress two Enemies at the same time. And, he instanced in King *Philip* ; who, out of vain hope, fell out with the *Romans*, at such time as they were deeply engaged with *Hannibal* ; and paid dearly for this Experience, that *Powerful Princes and States are not to be irritated and provoked, though they be in present trouble*.

4. Having easily brought them off by such persuasions, he then set himself to the raising of a convenient Army ; which, some say, amounted to about thirty five thousand Men. This number seemed to him sufficient, as being much of the same opinion with *Alexander* ; who, when he might have raised out of *Macedonia*, *Illyri-*

A. D.

402.

File and Ba-
ronium ad ann.
402.

Emper. ni-
gratus (acer-
ta p. r. r. r. r.
alas

Scam. cun-
to. d. d. d. d.
bus. d. d. d. d.
tan. r. r.

Tit. d. d. d.
nam. d. d. d.
pro. d. d. d.

Inf. d. d. d.
trans. d. d. d.
mat. d. d. d.

Inf. d. d. d.
la. d. d. d.
cia. d. d. d.

Si. r. r. r. r.
ra. d. d. d.
re. d. d. d.
O. d. d. d.
re. d. d. d.
Pal. d. d. d.

Sal. d. d. d.
la. d. d. d.
v. d. d. d.
m. d. d. d.

m. d. d. d.
b. d. d. d.
D. d. d. d.
to. d. d. d.

a. d. d. d.
B. d. d. d.
N. d. d. d.

m. d. d. d.
I. d. d. d.
I. d. d. d.

U. d. d. d.
R. d. d. d.
O. d. d. d.

U. d. d. d.
m. d. d. d.
M. d. d. d.

— d. d. d.
tal. d. d. d.
dos. d. d. d.

R. d. d. d.
ma. d. d. d.
cord. d. d. d.

Scet. 2.

cum and Greece, vast Forces ; never cared for more than forty thousand : esteeming a greater number not easie to be managed. Those Companies that had lately defended *Rhetia*, presently came to him ; and that Legion was sent for, which guarded the Roman Borders here in *Brittain*, against the fierce *Scots* and *Picts* ; to which, afterward, were joyned the Troops that guarded the Limits, against the yellow *Sicambri*, as he terms them ; against the *Chatti* and *Cherusci*. All these left their Stations, and the *Rhine* now naked, and void of all Defence, to be guarded by the terrour of the Roman Name alone. And, the Poet makes it a thing incredible, almost, to Posterity ; that *Germany*, in former times, having such fierce and terrible people, which scarcely could be kept in Awe and Order by the Emperors themselves in Person, though applying their whole Force and Industry ; should now be so tame and gentle under the Government of *Stilicho*, as not to make a step over the Limit, whence the Garrison-Soldiers, who served in the *Prætentura*, were removed. But *Stilicho*, with his new Army, returning into *Liguria* ; a new vigour, and fresh Colour, returned also into the Members and Cities of *Italy*. *Honorius*, in the mean time, while he so behaved himself in *Rhetia* ; set himself also, as well as he could, to make provision against this furious Invasion of *Alarich* : and that was, by imposing upon such *Honorati* as had obtained their Honours by Privileges, Favour, or Interposition of other Men, the finding of *Funiores*, *Tirones*, or new Soldiers. From this Indiction, or Imposition, he excepts such Persons as had obtained Honour by their own Labour and Industry in discharging Offices ; not by the way of *Codicils* and Indulgence.

Young Theodosius Consul.

5. The year CCCCII had *Theodosius Augustus* and *Rumoridus* for Consuls. Of the East and *Arcadius* we hear nothing further this year, than of his adorning his young Son with the Consulship. He was now at ease, the great Tempest of the Barbarous Nations being diverted upon *Italy*, and the Western Provinces ; and yet, though he was at leisure enough to make Laws, there is not one extant that appears to be his ; all of them that the Code now exhibits, bearing Date from *Ravenna*, except one from *Milan* ; for, to *Ravenna*, as we formerly said, *Honorius* now translated his Imperial Seat. Yet, when *Stilicho* returned out of *Rhetia*, he is said to have been besieged in *Hasta*, by *Alarich* ; and to that place, probable it is, that he betook himself for some time, the Situation and Strength of it inviting him ; although the Law, lately mentioned, about the raising of Soldiers, at the beginning of *December*, bears date from *Ravenna* also. However, from such Intelligence as we have, this we gather ; that *Stilicho*, knowing what danger he was in, hastened to his relief with all diligence, at such time as *Alarich*, in the severity of Winter, threatened him with a Siege ; hoping, by terrour thereof, to wrest some unequal Conditions out of him. But *Honorius* took Courage, in hopes of Relief, and the coming of his Father in Law : who, when he arrived, found that he was excluded from coming at him by the Enemy ; who had seized on the Passage and the Bridge, that lay over *Addna*, a great River, which, rising out of the Lake *Larius*, pours it self, at length, into *Padus*. There was no delay to be used in so desperate a condition as now the Emperor was ; And, yet, *Stilicho* had no great Force with him, for haste, having left his Army, and adventured back with a few Attendants. But, he brake through the middle of the Enemy ; making way with his Sword, and carried on by the instigation of his pious Valour, he escaped beyond all hope, and got safe to the place which he designed. The very day of his Arrival, uncertain by whose report, a rumour was spread abroad in *Rome* that he was returned ; and great joy therefore was expressed by the Citizens ; though it could not be greater, than what the Court had reason to conceive. On the other side, *Alarich*, with his *Goths*, were moved by the contrary passion ; perceiving such an Army to be at his back. He imagined himself caught, as it were, in a Net ; he began to repent that he had set his foot on *Italian* Ground : and the great Ambition he had of seeing and taking *Rome*, as forsaken by hope, now also grew feeble in him. He called a Council of War, consisting of ancient and experienced Officers : and the Long-haired Fathers assembled, the Pelled Court (or wearing Skins) now sat ; comely by the number of their Skars ; the Spear governs their trembling steps ; and old Age, not yet disarmed, in stead of a Staff, leans upon long Weapons. Thus the Poet expresseth the custom of these Barbarous People, of wearing Swords, or such like Arms, in Sheaths or Scabbards ; so as they might use them as Staves, or otherwise, for Defence ; a thing, also, usually practised in these days, with us.

Stilicho relieves Honorius besieged by Alarich.

6. The Poet now introduceth an old Man of the Company, speaking great things in behalf of *Rome* ; and telling him, how, for thirty years, from the time they

A. D

402

Venit et
mis Legio
centa Brita
Qui Scoto
frena truci
vique notat
Perlegit
gues Pillo
riente figu
a v. 410.
ulland Post
credat ? Gi
nim quonda
illa ferax
lis, &c.

L. 15. d. 71
bus, Cod. 71
8. Id. Decem.
8. au.

A. D

40

Theodosi
& Rumo
do, Conf.

mi
umque per
stem
Flammatus
tute pia, p
aque salut
Immamor, c
stretto proli
mens obvia
ro,
Barbara fu
co secuit t
ia cursu.
claud. in 6
cons. Honor
v. 466.
Crane, i
re Patres
ta Getarum
Curia, quos
eis decorat
merosa cicu
Et tremulo
git hasta
dus & ni
altis.
Pro baculo
tis non ex
ta Senectus

lect. 2. they passed *Ister*, they had had several Difficulties wherewith to incounter, but never were they so distressed as at this time; and he adviseth him to leave off the Enterprize and not entertain so arrogant thoughts, as to imagine that *Rome* could be subdued, against which whosoever made War, came always off on the loosing hand. In conclusion he bids him take heed of *Stilicho*, who ever had the fortune to suppress Injustice, who as he well knew, had made great slaughter of their men in *Ascadia*; made the Rivers of *Greece* hot with their Blood, and had destroyed *Alarich*, but that the Treachery and Favour of the Eastern Empire protected him; under the umbrage and pretext of Laws. With this free discourse of the old Man he was utterly enraged, and in a fury told him that he might thank his decrepit Age that he went unpunished. Should he, who put to flight so many Emperors, as the River *Hebrus* could witness, now run away at his perswasion? He? before whom Mountains debased themselves, and Rivers were dried up. By his *Gothick* Gods and the Ghosts of his Parents he swore, that he would not turn his Back, but would either be a Conqueror and Reign in this Country, or else lay his Bones in it. He had overran so many Countries, had broken through the *Alpes* and fetched Water from *Padus* in his victorius Helmet, and now what was remaining but that he should take *Rome* also? He said the Nation had been strong enough, even before it trusted to Armes. But now that *Illyricum* was in his Power, and the Inhabitants had chosen him their General; such a number of Weapons, Swords and Helmets, he had obtained by the Sweat of the *Thracians*, having legally converted the Income of Iron, received formerly by the *Romans*, to his own use. They whom he continually, for several Years, harrafed, and were given up to serve him, with Sighs had delivered up their Arms; and their Steel being wrought with Art and Labour, now was forged and fashioned to harm themselves by the lamenting Smith. Together with these things he bade them consider how the Gods themselves advised him to the Enterprize, not by any Dreams or Augury, but by a plain Audible Voice uttered from a Grove, which bad him begon without delay; for this Year he should break through the *Alpes*, and pierce as far as *Rome* it self.

7. Being encouraged by predictions, away he marched, and came to a River called *Urbs*, where, by the event, he was taught what Ambiguity there was in such sayings. And *Stilicho* was not far behind, animating his Soldiers as he went. He desired them now to be revenged for the violating of *Italy*, for their Emperors being besieged (which he termed wickedness) and to abolish the disgrace which the passing of the *Alpes* had procured. This was the Enemy whom they had so often defeated in *Greece*, who had been protected by Civil discord and hatred, and not by any Power of his own; though he was fallacious and made nothing of breaking his Word, or Perjury. He bad them believe that now all the Nations which either direful *Britain*, *Ister* or the *Rhine* nourished, stood at gaze; that they should therefore by one fight obtain so many Victories, and gain so many Battells, repair the *Roman* Glory and underprop the Empire now in a sinking Condition, as with their Shoulders. They were not now in *Thrace*, nor waged War in the remote parts of *Greece*, but the War was brought into their own Bowels, nay into the Heart it self; he prayed them therefore to protect Father *Tiber* with their Targets. This *Claudian* poetically; but, from whose Poetry much may be learned concerning this War, of which we have so little account from others. It's certain that *Stilicho* pursuing *Alarich* in this manner, they met and engaged near a place called *Pollentia* some seven Miles distant from *Hasta*. From *Orosius* it appears that one *Saul* a Pagan and Barbarian had the chief Command, who concluding that the *Goths* (who were Christians though *Arians*, whatever *Claudian* as a Poet and a Pagan sings of their Gods) would not fight on *Easter* Day, out of respect to their Religion, chose that very day to fall upon them. They being thus compelled to fly to their Arms, Fought with greater Animosity, and received him with such resolution, that him they slew and put his Men to the Rout. *Claudian* makes mention of an *Alan* by Nation, one most eminent amongst that People which now served in this Expedition, to whom Nature had given great Courage, though but small Limbs, and a terrible Look, whose Face was all furrowed with Wounds. He by orders received from *Stilicho*, came in all haste with his Horse, and lost his Life in *Italy*. He terms him happy, worthy of the *Elysian* Fields, and to be Celebrated in Verse; who, though by his death burnt with a desire to purge his suspected Fidelity, and with his Blood washed off that undeserved Stain, the Sword it self being Judge.

8. With

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A Fight at *Hasta* not far from *Pollentia*.

Gentile nunc
omnes quas diva
Britannia q
tes, Quas Ister
quas Rhodanus
per lora punitas
in speculis, was
tot paelia Vincit
te bello. a. v.
558. Lib de Bel-
lo Gallo.

Tacito de Alarico
regi cum Gothis
his sepe victo
sepe conclusa
semper, et missa.
Tacito de infeli-
cibus illis apud
Pollentiam gestis,
quam barbaro et
Pagano duci, hoc
est Sauli, sum-
ma belli commissa
est, cuius im-
probitate vixit
veneruntque dies
et sanctum Pa-
trarchatum?
cedentis hosti
propter religio-
nem ut digne
erectum iustit.

Sect. 2. 8. With his Death, the Horse he commanded was so disordered, that they turned Tail and ran away; and the whole Wing might have miscarried, had not *Stilicho* come seasonably in with the Legions. He caused the Horse to rally, and the Fight was renewed with great Animosity and Violence on both sides. A bloody-er Battel had not been fought for many Years, the Soldier being so thirsty after Blood, if we believe *Claudian*, that he despised that great Wealth which he found in the Enemies Camp; so intent was he upon the pursuit. But here were recovered many Captives, and the Poet tells us that the Purple Robes of *Valens* were found amongst their Treasure, with abundance of Plate which the *Goths* had plundered in their Ransacking of the rich Cities of *Greece*. For after a grievous Contest they gave Ground, and being utterly routed, great slaughter was made of them though they dispersed themselves many Waies; and this one Day, as the Poet sings, made amends for what Mischief the *Romans* had endured for thirty Years. *Stilicho* might have intercepted the Flight of the *Goths*, and as the Fame went, have destroyed *Alarich*; but whether he suffered him to live and be reserved, for some use he intended to make of him afterwards; or for that he would not make them desperate, he suffered them to escape, and making an Agreement with them, commanded they should depart *Italy*. *Alarich* obeyed so far as to draw off his Men, now reduced to the half of their former number, toward *Verona*, but it seems would stir no farther, but brake the Agreement, by which he was, as some say, to retire into *Gall*, and perfidiously made preparations for another Fight. *Stilicho* was not at great distance, being now more willing to engage than formerly, because the Enemy was drawn off farther from *Rome*, and the River *Padus* was betwixt them. And engage they did in another bloody Battel, wherein the *Romans* had as great advantage as before they had had either at *Pollentia* or *Hasta*. *Alarich* narrowly escaped by the swiftness of his Horse, and with the remainder of his Army fled to the Mountains, which he attempted to pass for *Rhetia* or *Gall*. But, *Stilicho* there opposed himself, and kept him in; so long, till he and his *Goths* were so much distressed that after many opprobrious Words, most of his Men forsook him, some making their escape, and others going over to the *Romans*. He perceiving himself thus forsaken, before it should be too late, withdrew himself from the Hill and retired beyond the *Alpes*, notwithstanding *Stilicho* was still at his Heels as *Claudian* Writes; who though he flatters him as his great Patron, yet was sensible enough of the Suspicion he lay under, of willfully letting *Alarich* escape. The greatest account we have of this first Invasion is from him; *Zosimus*, so careful an Historian he was, not making the least mention of it.

Stilicho gets a notable Victory.

A second as considerable as that.

Honorius makes Laws against Desertors.

9. That *Alarich* his men should forsake him in so desperate a Condition as his Affaires stood in, is no wonder, if we consider the humour of the Emperors Soldiers themselves during the trouble and danger of the War. They ordinarily ran from their Colours, and though they were on the winning side, yet were still deserting the Service. Which caused *Honorius* by several Laws directed to *Hadrian* the *Præfatus Prætorio* of *Italy*, to provide against so pernicious a Practice. Toward the end of *February* he gave directions how such Desertors should be proceeded against. Being apprehended, he would have them carried before the ordinary Judge of the Province, who must hear and examine the matter, and if he find the Party guilty, commit him to Prison; then send up the Examination and Confession to the *Præfatus Prætorio*, that the *Magistri Militum*, the proper Judges of Soldiers might determine what should be agreeable to Justice. In case any be discovered and make resistance, he orders, that as Rebels, they may be killed: he commands the ordinary Judge that in his Examination he inquire strictly into the Passports or Letters of Mission, which they often forged; and that the Laws against Concealers, or such as harbor these Fugitives, be put in Execution. But so slow, it seems, the Judges were in executing the Laws; or so little effect came of it, that the Emperor thought fit five Months after, to revive a Law made by his Father ten Years before, against these Concealers, whereby the Grounds of such as harboured Desertors should be Confiscated, if the Lords knew of their lurking therein; if they were ignorant of it, then their Baliffes or Officers should be severely punished; which he extends also to his own Servants belonging to his Domaine. Yet still was the Disease so infectious that these Remedies would do no good; which put the Emperor upon farther Applications. Some six Weeks after, he gave leave to all the Provincials to rise up and siesse upon these Runaways, and if they made resistance, to kill them, no otherwise than as publique Thieves and Robbers. But he exempts from their

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Altius haad.
quam toto m.
cendimus reg.
In jugulum S.
thia, tanta e
clude sup.
Contudimus l.
nam hic
fregimus li.
a 2.601.
— hnoq; ni
Romana t.
Quicquid h.
nō alius
mus anni. d.
633.
Concessaq; h.
(verum si. d.
monit huj.)
Luce tot am.
sociis atq; u.
nibus una
Direptis q.
Latio dij.
jussu,
Hostis. Sec.
Conf. Hono.
v. 128.
Tu quoq; m.
parum G.
Verona t.
pho Ad.
giscumainu
plus Pollentia
rebus
Aufonius ar.
Menia
Asce. Hi
lus dum pat.
moet, d.
coactus
tremo mut.
rat præsent.
Nil sibi per.
sensit prodig.
vorem. a 2.22

L. 11. De D.
tor. & O.
corib. corum.
Th. lib. 7. tit. 1.
Dat. 6. Cal.
Mart. R.
Rav.

L. 12. Tit.
Dat. 8. Cal.
Rav.

L. 13. 14.
jnd. tit. D.
Non. Octob.

§. 2. their Power such Soldiers as were newly raised, in case they made any escape. " For the course was, that if a *Tiro* or newly raised Soldier ran away within a Year, he that sent him should pay the value in Money; and now if such were killed by the *Provincials*, they that found them should endure the loss; and besides, these young men could not so properly be said yet to have deserted the Service, as not to have come up to it. In Conclusion he will have the *Primates* of all Cities, Villages, and Castles, to know, that Concealers ought to be proceeded against according to " the Laws made by his Father.

A. D.

403.

10. What reason or occasion was given for making these Laws, is more evident, than that which moved *Honorius*, this Year to direct another to *Ulpian* the *Præfectus Annone* concerning the marriages of *Bakers*. By this he ordains that it " shall be unlawful for any Baker and his Children to marry with any private " Persons, and particularly with Players, or the *Aurige* or Chariot drivers in the " *Circensian Games*; although the Bakers themselves should consent, nay though " some Rescript might be surreptitiously obtained. If any should transgress this " Order, he commands that he be whipped, and after that undergo the Pain of " Deportation; and if the Office of the Prefect be not vigilant to prevent it, for " every Family, it shall incur a Fine of ten Pounds of Gold. And all that marry " the Daughters of Bakers shall immediatly be appropriated to that Body. By pri- " vate Persons are meant, all that were not of that Corporation, and of these, the Stage Players and Chariot-drivers are particularly excepted, who either lived near to the Bakers in the same Region of the City; or else by their Arts had such peculiar ways of Wooing and Mariage, as was not consistent with the publique safety. To be sure the Chariot-drivers were in a very ill Name, being suspected as guilty of dangerous contrivances for bringing about their ends, and particularly of Magick, as we have seen heretofore. This Law concerned the Bakers, the Players and the Chariot-drivers of *Rome*, who this Year had the more to do, by reason of *Honorius* his going thither in Person after the Defeat of *Alarich* and his *Goths*. The Senate and People were inflamed with a desire of seeing him; and had often requested that he would do them the Honour; but either for that he did not like the place, or for other reasons, he had refused. After the Defeat of *Gildo* they expected in vain that he would have entered *Rome* in Triumph, but now that so great a Victory was obtained over the *Goths*, he could not resist their Importunity, but consent to give them the satisfaction of once more beholding such a solemnity. And from *Ravenna* he departed toward the latter end of the Year, and by the way of the *Adriatick Shore* took his Journey toward the City by *Fanum Fortunæ*, *Metaurus*, *Petra Pertusa*, *Fovis Delabrum*, the River *Clitumnus* (famous for a brood of white Horses; which were much made use of in Triumphs and publique Entries) and *Narnia* (so named from the River *Nar* which ran below it into *Tiber*) a City placed upon the Mountains on the *Via Flaminia*, where, the report was, that the fall of Rain was wont to raise a Dust. At his Entry into *Rome* he was received with triumphal Arches, a prospect of new Walls, and elegant Turrets. But whereas at such triumphal Solemnities, it was the custome for the Senate and those of *Patritian* Blood to greet the Emperor and walk before his Chariot, he forbade any such Ceremony to be used towards him.

gibits Bak-
o marry
other Per-

L. 21. de Pisto-
ri. Col. Th. D. 1.
2. L. 1. de Pisto-
ri. Col. Th. D. 1.

Adrian. Inter-
dict. de Pisto-
ri. Col. Th. D. 1.
2. L. 1. de Pisto-
ri. Col. Th. D. 1.
L. 1. de Pisto-
ri. Col. Th. D. 1.

enters Rom
triumph.

Roman. Inter-
dict. de Pisto-
ri. Col. Th. D. 1.
2. L. 1. de Pisto-
ri. Col. Th. D. 1.

11. So we are brought by *Honorius* to *Rome*, and to his sixth Consulship, which here he entered, having *Aristanctus* for his Colleague, in the CCCCIV Year of our Lord. The People were overjoyed to behold him, and especially upon such an occasion. Being elevated also by the late Victory over *Alarich*, they be- thought themselves of their old *Secular Games*, which had been neglected since the Days of *Constantine*; and the *Pagans* by their Importunity prevailed that now they might be Celebrated, though it was not at the due time. For these Games were, as we have formerly shown, to be Celebrated at every hundred and tenth Year. It's true, *Domitian* broke the Rule, and anticipated in six Years; for he Celebrated them in the eight hundred forty first Year of the City, whereas he ought to have deferred them to the forty seventh. But *Severus* set them right again, Celebrating them not till the nine hundred fifty seventh Year of the City, or of our Lord the CCIV: from which, two hundred intervened to the sixth Consulship of *Honorius*, and so those *Secular Games* which should not have been observed but every hundred and tenth Year, were confounded with the *Centenari- es*; but glad were the superstitious *Romans* to have them any time or way. For *Honorius*, it's said, would not permit any *Pagan Rites* to be observed, only the Games wont to be had in the Theatre and in the Cirque, to which *Claudian* adds the

his sixth
Consulship.

A. D.

404.

Honorio A. 6.
Aristancto
Cons.

permits the
Sec Games
to be celebra-

L. 1. de Pisto-
ri. Col. Th. D. 1.
2. L. 1. de Pisto-
ri. Col. Th. D. 1.
L. 1. de Pisto-
ri. Col. Th. D. 1.

Sect. 2. the Exercise of the Military Men in the *Campus Martius*. Nay it's believed that this very Year he took away the cruel Combates of the *Gladiators*, with which all good natured Persons could not but be offended. He continued at *Rome*, till *August* at least, as appears from five Constitutions which bare Date from this City, and this Consulship, being directed to *Hadrian* the *Pæfētus Prætorio*. One of these relates to War, though in time of Peace, declaring that no Person or Persons whatever shall be excused from Contributing to the Baking of the *Buccellatum* or Bisket for Soldiers, and the removal of the military *Annona*, or Provisions, from place to place as occasion shall Serve; no not the Domaine or Patrimony of the Emperor himself. If the *Bailly* or Officer of any Lord neglected to do this Duty, he must be grievously punished, and the Lord himself, if knowing, pay the fourefold of what is due from his Land. For this was the Burthen of the Soile, and paid in Mony by the *Provincials*; the Bread it self or Bisket, being Baked by several Bodies of Bakers destinated to this Work in the Provinces, who had their own *Præpositi* or Overseers.

He will have none excused from certain services due to the Army.

A. D.
404.

L. 2. De excus.
one & translat.
one Annona.
Cod. Theod. lib. 12.
5. & L. 2. de
Just. cod. lib. 12.
Dat. 8. Cal. Aug.
Rome.

Favours the
Decurie of
Rome.

John Chrysostome
banished.

12. We do not find that by any Law Enacted now, he sought to reward or gratify the People of *Rome*, except it was by one made in favour of the *Decurie* or Bodies, as we have said, of *Scribes* of several sorts, as *Librarii*, *Fiscales* and *Censuales*. It's directed to *Exsuperentius*, *Fulius* and the rest of the *Decuriales* or Judges, (being the chiefest in the Offices) and confirms to them the Privileges formerly granted them either by his Father or the former Princes; so as no ordinary Judges or Governors of Provinces, to whom he will have notice be given and who were wont to infringe them, shall offer them any corporal Injuries, by subjecting them to questions by Torture, or hinder them of their just Profits and Emoluments. In the mean time, while there was nothing but Joy and Triumphs at *Rome*; the City of *Constantinople* was in far different humour, by reason of a Picque which *Eudoxia* the Empreess, had to *John Chrysostome* the Bishop. He had inveighed against a Statue erected on a column of Porphyry near the Church of *St. Sophia*, to her memory; with which she was so nettled, that for this and other provocations she pretended, she so far incensed her Husband, that several Bishops were sent for to *Constantinople*, and amongst others, *Theophilus* of *Alexandria*, on purpose to depose him, which they did accordingly, and having put one *Arsacius* into his place, he was banished to *Cucusus*. The People, whom, as *Zosimus* tells us, he had a wonderful Art in pleasing, fell into great tumults; and on the other side *Arcadius* obnoxious to his Wife (a proud, high Woman) and if you will believe that Writer, wonderful dull and silly, forbade their meetings. After the banishment of the Bishop, a great Fire happened in the City, which his Enemies attributed to the Contrivance of his Party; and they to that of those that ejected him; and many Examinations were had hereupon, and several Persons tortured, for Finding out, or else concealing the Truth. For this purpose several Edicts we find this Year made, which with the occasion of them, being of Ecclesiastical Concernment, we must refer to that History. Of one we shall only take notice, which was made upon this occasion; that those that they called *Fabricenses*, or belonged to the publique forgers, were entertained by the Lords of Grounds, to be their *Bailies*, or to hire, or till their Lands. This tending to a double Mischeif, in that the publique work of making Armes was thereby neglected, and the materials of Iron and other Mettalls stolne and diverted to private uses, he tells *Anthemius* the Magister *Officiorum*, that such Entertainer for the future shall loose such ground, as is intrusted with such a *Fabricensis*, which shall be confiscate, and the Party so entertained, incur a Mulct of two pounds of Gold.

L. 4. De Decur.
is urbis Romæ
Cod. Theod. lib. 12.
Cod. Just. lib. 12.
tit. Dat. 8. id.
Jul.

L. 5. De Fabr.
lib. 9. Co. l. 1.
10. tit. 22.
3. Cal. Aug.
est a Cod.

Honorius intended
vours to recover
the Estate
of *Gildo*.

13. The Year CCCV of our Lord had *Stilicho* the second time and *Anthemius* for Consuls. *Honorius* was now returned to *Ravenna*, where he was given to understand that notwithstanding all the order and course that had been taken for confiscating the Estate and Patrimony of *Gildo* and his Associates for seaven Years; yet several of their Possessions were still held and concealed by private Men to the disgrace as well as the loss of the Government. To give all the remedy he could, he issued out an order to *Ursicinus*, his Comes *S. L.* requiring all diligence to be used for discovering and Confiscating the remainder, and for both an encouragement and terror to Concealers, ordered that whosoever would come in and confess, should only pay the profits they had received, without incurring any Mulct or Punishment, but if they came not before the first of *October* following, they should forfeit the double value both of what they possessed and also of the Fruits or Profits redounding from it. By this and other Laws it appears how bold some Persons were in these Days, upon the suppression of a Tyrant or publique Enemy,

A. I.
405
Stilichone
& *Anthemius*
Coff.

L. 19. De
Proscrip. Co.
Th. Dat. 12
Maj.

my ; either to conceal their Goods or Lands, or to seize on them, as by publick Authority ; which was constrained, afterward, to force them to shew their Titles. But, in such disorder did *Africk* still continue, that, to redress the Inconveniences thereof, the Emperor, in whose District it lay, was well nigh put to as much trouble, as for all the other Provinces belonging to him. Yet, had the *Proconsul* thereof power of Appeal from other ordinary Judges ; and to determine of matters, *Vice Sacra*, as they termed it, since the beginning of the Reign of *Constantine* ; though, before, as well he, as the rest, were appealed from, to the *Præfett* of the City. *Honorius*, now, to save himself the trouble, as well as Appellants, the Labour and Charge ; declared to *Diotimus*, the present *Proconsul*, That he would have this custom observed, which now he terms ancient : Adding withal, that he should receive Appeals from the *Gentiles*, or their Commanders ; who, being raised out of Barbarous Nations, watched at the Limits of the Empire ; which was a singular Prerogative.

A. D.
406.

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L. 6. de Appel-
lat. Cod. Th.
Dat. 11. Cal.
R. 10. Abil. 2
Col. 7. 9.

14. *Arcadius* this year, from *Constantinople*, took a Progress into *Bithynia* and *Galacia*. At *Nice*, in *Bithynia*, we find him at the beginning of *June* ; by the date of a Law, which there he made concerning Usury. It must be known, that, by virtue of some Constitution, not now extant, in those days it had been unlawful for Senators to put Money to Interest. And indeed, during the *Roman Commonwealth*, as *Gothofred* observes, by how much persons were elevated above the ordinary condition, and more able to tyrannize over their Debtors ; by so much the more were they restrained, in the Exercise of Usury, by the Laws ; yet, to evade these Laws, when it was unlawful for Senators to take Interest, they would receive Gifts or Rewards ; which possibly, might amount to as much as the Interest it self. And therefore, *Alexander Severus*, permitting a third part to be taken by other persons, allowed Senators to receive one half of the third part, or two in the hundred. But afterwards, again, it became unlawful to them to receive any at all ; until, at last, it seemed unreasonable, that young Senators, or those that were not of Age, should be restrained from so doing ; both because their young years were wont to be favoured, and they could not make use of any power to terrifie and oppress their Debtors. Therefore did *Arcadius*, seven years and an half ago, declare to *Eutychianus*, then *Præfett*, That Interest, which was stipulated and contracted for, should be paid them, as well as the Principal. And now, this Year, he thought fit to take off the Restraining laid upon all Senators, so far, as, by an Edict inscribed to *Optatus*, the *Præfett* of *Constantinople*, he gave leave to them to receive the half of the hundred by the Month ; or, as we say, six in the hundred. For, as we have formerly shewn, the *Romans* paid Interest every Month ; and the hundredth part, or one in the hundred : so that, at that rate, one hundred of our pounds must have brought in one pound every Month, or twelve by the Year. This was ordinarily allowed by the *Roman Laws* to other persons, whatever some particular Prince might do. But *Arcadius* thought fit to limit Senators to one half.

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L. 1. 3. 4. de iur.
jur. Cod. Th. lib.
2. tit. 3. Dat.
11. 1. 1. Jan.
Abil. at od. Just.

15. From *Nice*, he removed to *Ancyra*, in *Galacia* : where we find him in the beginning of *July*. In his Progress, he took notice how his Houses or Palaces in the Country were abused, by the frequent use which the ordinary Judges of Provinces, and others, made of them in their Travels and Removals. To signify his displeasure hereat, he commanded *Anthemius*, now *Præfettus Prætorio*, That none should have leave to continue within his Palaces in any City and Mansion ; but that the Governors of Provinces, and Vicars of Diocesses, should take care, that none usurped that liberty in their Journeys ; as also, that they fell not to decay, for want of Repairs. These things, if they did not observe, the Vicars should incur a Mulct of thirty ; and the *Consulares* and *Presidents*, of twenty pounds of Gold ; and their Offices forfeit as much : Neither should the *Curiales* (who were also to look to the Palaces) go unpunished. Such as were so bold, as to make use of the Houses ; if they were of Quality, and had Estates, were to be fined in twenty five pounds of Gold : If they had mean Fortunes ; then, to be banished. And, if they themselves came not there ; to be sure, their Horses were not to come near his Stables. Thus we see, that throughout the Provinces, both in Cities and Mansions, the Emperors had Palaces ; and that, upon the *Roman High Ways*, for their convenience of visiting the several Countries. In the Eastern Empire, where this Law was made ; besides those of *Constantinople*, there was that of *Antioch* ; and one at *Daphne*, in that pleasant Wood ; besides another at *Heraclea*, in *Thrace*. In the West ; the Emperor had one here at *York*, of which, History makes mention ; where was also, a *Prætorium*, and a Temple of *Bellona*. There

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a up.

L. 1. N. qui in
Palat. mans.
at. Cod. Th. lib. 7
tit. 10. Dat. 5.
11. Jul.

17. de Cons. 1. 1.
17. 1. 1.

Sect. 2.

was one at *Milan*, another at *Narbon*, and a third at *Triers*; besides one at *Pastobig*, in *Noricum*. This Law is directed to *Anthemius*; who, from *Magister Officiorum* was advanced, this Year, both to be *Consul* and *Præfectus Prætorio*; in which Office he continued many Years: a Man generally beloved for his Abilities, and great Services performed to the State; as we may see hereafter.

Great Disorders in his Court, according to *Zosimus*.

16. But, about this time, *Zosimus* informeth us; that in the Court of *Arcadius*, Calumniators abounded more than ever; still hanging upon the Palatine Eunuchs: and if any rich Man was dead, they spake of his Estate, as if he had left no Children. Then were the Rescripts of the Emperor issued forth; whereby the Patrimony of *Titius* was assigned to *Sempronius*; and Inheritances were passed over to such as begged them, while the Children stood by, and, with Groans, invoked the Ghosts of their Parents. In conclusion, nothing was transacted, that did not fill all places with Lamentations, and brought not some mischief to the Inhabitants. For, the Prince himself was extremely silly; his Wife insolent above Nature, and exposed to the Avarice of the Eunuchs, and of her Women, who governed her; so that all Men were rendred miserable, by the Courses they took: and, to modest and civil persons, nothing, than death, was more desirable. And, as if this had not been enough, another danger now threatned *Constantinople*, greater than all others, upon this occasion. *Fohn* being returned out of Banishment, and, in his Sermons, stirring up the people against the Empress; when he saw that he was deprived of his Bishoprick, and expelled the City; took Ship, and went his way. Those of his Party having this in their design, that none other should be Bishop; resolved, straight to burn the City. They set fire to the Church in the night, by the darkness whereof, they escaped undiscovered; and, in the morning, presented the Citizens with a dismal sight: For, all the Church was burnt; and, together with it, the adjoining Buildings, as the Wind stood. The Fire seized also on the House where the Senate was wont to be assembled; a magnificent and elegant piece of Architecture, placed before the Palace. For, it was adorned with Majestick Statues; and such coloured Marbles, as, our Writer saith, in his time, were not to be found. And, it was reported (he adds) that those Images which were dedicated to the Muses at *Helicon*; and, in the days of *Constantine*, suffered the force of that Sacrilege which was committed against all things; being here erected, perished in the flames: a thing portending that Ignorance, which was to invade all sorts of Men. But, a miracle, you must know, happened at this time, which, he thinks, is by no means to be passed over in silence. The Temple of the Senate, had before the Gates, the Images of *Jupiter* and *Minerva*, standing upon Bases of Stone, as they did in the time of the Writer: the one being reported to represent *Jupiter* of *Dodona*; and the other, the same with that which was consecrated at *Lindus*. Now, though all the Temple was consumed, the Lead melted, and the Stones and Rubbish fell down upon these Statues; yet, when no other was expected, but that they had run also the same fortune; the Rubbish being removed, they were found safe and sound: which made the more polite sort to conceive hope, that these Gods would protect the City. But, let this happen, saith he, as it pleaseth the Divinity.

A Fire in Constantinople.

The *Isauri* make Depredations.

17. Now, all men bewailing the case of the City; and finding no other cause for it, than the shadow of the Afs, as the Proverb was; they, about the Emperor, began to think of making up the Breach. But their thoughts were diverted by ill News; that a great multitude of the *Isauri*, inhabiting the inaccessible places of the Mountain *Taurus*, above *Pamphylia* and *Cilicia*; being divided into several Troops of Rovers, had fallen down upon the neighbouring Country. They could not attack the fortified Towns, but they over-ran the Villages that had no Walls: And their Access was the easier, because this Region, during the late Motions of *Tribigild*, had been taken by the Enemy. To oppose them, was sent one *Arbazacius*, with hopes that he would relieve *Pamphylia*: and he found them retired again into the Mountains, whither he pursued them; burnt many of their Villages, and killed no small number of them; and might have quite subdued them, and provided entirely for the security of their Neighbours, had he not given himself up to filthy delights and pleasures, whereby he remitted much of his Vigour; and putting out his hands to lay hold on Money, preferred Riches before the publick Good. For this Prevarication, being sent for to Court, he expected no other than to be called to Account: but, by giving the Empress part of what he had got from the *Isauri*, he escaped all questions; and spent the rest in the delights of the City. As for the *Isauri*, they now robbed clandestinely; not daring openly to fall upon the adjacent Countries. Thus writeth *Zosimus*, concerning the Misgovernment at *Constantinople*,

A. D

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Vide Prolog.
graphiam.
Theod.
a p. 800.

Incendium
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proxime
tem. 8. Sci
Nov. refert
Chron. Alt.
vide Chron
Cod. Th. 12
An. At ali
videtur in
dium in
one excit.
Anno
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ct. 2. in those days, and the ill effects thereof. Concerning what he saith of Calumniators, and begging of Estates, we find a Law, made this Year, about the same Subject; but, with design to oppose the practice, which, possibly, now was grown so high and intollerable, that the Peace might have been endangered, if some stop had not been put unto it. But, hereby confirming a Sanction of the famous Prince *Constantine*, as he calls him, He forbids that any Accusers be heard, or that any beg such Possessions as now are in private hands; and belonged, either to the Patrimony, to the Commonwealth, or to the Temples: and this, under pain of being punished as Sacrilegious Persons. From the time of *Constantine*, these several sorts of Lands had been given and sold by Princes, and seized also sometimes without publick Authority.

A. D.

405.

L. 24. de Privi-
onibus, Cod. In.
Dat. 8. Id. Nov.
Abst. a Cod.
Just.

v Natural
ldren to be
vided for.

18. There was a Controversie at this time concerning the Provision that was to be made for Bastards or Natural Children; some leaving them so much, that having Legitimate Sons or Daughters besides, they carried away from them, often, a great part of their Inheritance. To give Rule herein, he ordained, by a Rescript directed to *Anthemius*, the *Præfect*; that, He who had a Mother, or Legitimate Children or Grand-children, one or more, should not leave above a twelfth part of his Estate to his Natural Children, and their Mother; or half so much to his Concubine, by which he had no Children. The *Præfecti Prætorio* having so much business, in these times, upon their hands; besides the ordinary Governors of Provinces, were wont to assign Judges and Arbitrators, for hearing certain Causes, and taking up some Differences; from which Judges and Arbitrators, Appeal lay again to them the *Præfects*. But, it was questioned, what time should be allowed, both for the interposing, and repairing thereof? In Answer to which, *Arcadius* now told *Anthemius*, herein concerned; that, If these Judges were present in the City, or some Neighbouring Province; that then the Parties should have two months to prosecute, and thirty days to repair their Appeals: But if they were in remote Provinces, six months should be allowed for the one, and three for the other; as the custom was, of Appeals from the Governors of Provinces.

L. 2. de Natu-
libus liberos,
Cod. Just.
Dat. Id. Nov.

v Appeals
n Arbitra-
to be ma-
ed.

L. 63. de Appel-
latione, Cod. Just.
Dat. Id. Nov.
Jan. Abst. a
Cod. Just.

19. The year following, or the CCCCVI of our Lord, had *Arcadius Augustus* the sixth time, and *Anicius Probus*, for Consuls. *Longinianus*, this year, was *Præfectus Prætorio* of Italy; to whom, some Edicts we find directed, under this Title; though he had, some years before, been *Comes S. Largitionum*; as appears, both from the Code of *Theodosius*, and the Epistles written to him from *Symmachus*. The first thing we meet with, given him in charge, after his Promotion, was, to remove an Abuse in Shipping; which *Arcadius*, six years before, had endeavoured to reform in Egypt. For *Honorius* tells him, that Many persons in these days, thought to defend their Vessels by the Names and Titles of divers Persons: To obviate which Fraud, he commands; that, If any, to avoid the publick Necessity, shall presume to affix such a Title; the Ship, or Vessel on which it is affixed, shall be confiscated. For, as he doth not hinder, he saith, private persons from having Vessels; so he will not permit any fraudulent practices: For as much as it is fitting, that, if Necessity urge, all, in common, contribute to the publick Utility; and, to the Transportation (of Corn and Provision he means) without any Privilege of Dignity. In conclusion, he gives order, that, if this Abuse be not removed in thirty days, all such Ships shall be taken from their Owners. Though the City of *Rome* stood in as much need as *Constantinople*, to have a certain method of bringing Provisions; yet, *Honorius* was more mild than his Brother, upon the like occasion; in, not only granting the space of thirty days, to retract what had been done amiss; but, in not inflicting punishment upon such Noble Men as granted such Protections; by giving leave to make use of their Names in discourse, or affixing them on the Ships themselves: for, in old time, it was the custom to fix these Titles, not only, to Possessions on Lands; but also, to those that floated on the Water; besides the Sign, or ordinary Badge, which, sometimes was *Castor* and *Pollux*; as we learn from that wherein *St. Paul* sailed. But, this Emperor had made so many severe Laws, concerning this matter, against the *Navicularii*, and others; that, as to this point, he might be excused, or for other reasons, well known to those upon the place. This was dated from *Ravenna*, where *Honorius* made his Abode this year; and whence, about a month after, he gave fresh Orders to the same *Longinianus*, to call to Account the Collectors of the Revenue; against whom he had received Information, that several who had been employed in the Provinces for the last five years, had nothing at all contributed,

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Arcadio A. G.
Probo
Cons.

ius re-
vet. Abuses
Shipping.

Molti navis sa-
as ditionem
nomine
titulis tuentur,
Cod. L. 2. de Na-
viculariis, Cod. Just.
Tit. 7. &
L. 1. Cod. Just.
Cod. Tit. Dat. 3.
Id. Jan. Rav.

the Colle-
ors of the
Revenue.

L. 1. de Confec-
tionibus, Cod. Just.
Dat. 5. Id. Febr.
Abst. a Cod.
Just.

Sect. 2. in their places, to the publick Good. He commands, that, such as he found upon Examination, to have been negligent, he should deprive of the Commissions, or Codicils; and force them to restore the double of the Profits they had received, though they had the Title of *Comites*: And if they were known to have injured the *Provincials*, to cause them to make restitution of four fold.

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Radagaisus
prepares to
invade Italy.

Stilicho de-
feats him.

20. He further enjoined his *Præfect*, to execute severity upon such as, forsaking their Colours, betook themselves to Robbing and Depredations; a thing too usual in *Italy*; especially, in the Regions thereof that lay near the Mountains. But, though they had not changed their Employments, but only forsaken their Camp, and withdrawn themselves from the Military Service; he had had reason enough to execute upon them, all the Severity, that by Law, could be inflicted: for, about this very time, such an Inundation of Barbarous people happened in the West, as threatened the utter destruction, both of *Italy*, and the neighbouring Provinces. One *Rhodogaisus*, as *Zosimus* calls him; as others, *Radagaisus*; allured, it seems, by the Wealth and Fertility of the Country; with a Body of four hundred thousand Men, collected out of the *Celtick* and *German* Nations, that lived beyond the *Rhine*; as also, others, inhabiting beyond the *Danube*, or *Ister*, prepared himself to invade *Italy*. At the report thereof, all men were wonderfully seized with fear; all the Cities despaired of preservation; and *Rome* it self was disturbed, as now in extreme danger. But *Stilicho*, taking with him all the Forces that lay about *Ticinum*, in *Liguria*, consisting in thirty *Numeri*, or Regiments; and adding to them all the Assistance he could compass from the *Alans* and *Huns*; not expecting the Enemies coming, with his whole Army passed the *Ister*: and setting upon the *Barbarians*, when they expected no such matter, cut them all in pieces; in so much, that none escaped, some very few excepted; whom he lifted amongst the *Roman* Troops. Elevated, as with reason, by this Victory, he returned with his Victorious Army; crowned, as one may say, by all persons; as having, beyond all hope, delivered *Italy* from such imminent dangers. This Account *Zosimus* gives us of this Adventure of *Rhadagaisus*; concerning which, we must still be constrained to say what we have so often demonstrated concerning his Intelligence or Veracity. Indeed, he is not very strait laced in mincing the greatness of the Victory. For, he reports the Army of *Radagaisus* to have consisted of four hundred thousand Men; whereas *Orosius* speaks but of two hundred thousand, at most; and *St. Augustine*, of much above one hundred thousand.

L. 15. de
toribus,
Th. 6. l. 1.
Full. co.
Dat. 5. Cal.

lib. 5. p. 8.

Upon Rumour
of his coming,
Honorius in-
vites Slaves to
take Arms.

And encour-
ages free per-
sons.

21. But, whereas he talks of *Stilicho* his passing the *Ister*, and defeating the *Barbarians* beyond that River; the whole and entire consent of all Authors, who lived and wrote in those times, convict him of falshood; and abundantly satisfy us, that *Radagaisus* invaded *Italy*. *Orosius* calls him a *Scythian*, and a *Pagan*; and *St. Augustine*, King of the *Goths*: they that lived beyond *Ister*, whether *Goths* or others, passing, in those days, by the general Name of *Scythians*. He perceiving *Alarich*, after his Defeat, to be received into Confederacy with the *Romans*; and to be averse to War, as respected and honoured by them; excited the Nations beyond the two Rivers, being their antient Enemies, to take Arms, to fall into so rich and fertile a Region, and revenge upon it the Slaughter lately made of their Country-men; not doubting, but they should be in a capacity, both to take, and plunder *Rome*. The rumour of this design coming into *Italy*, *Honorius*, at *Ravenna*, took such order for defence, as so suddain warning would admit. He hired great numbers of *Alans* and *Huns*; and published an Edict, or Proclamation, whereby he invited, even Slaves, to take Arms, though generally esteemed unfit for Warfare, with promise of Liberty, as had sometimes been practised in great Necessities, and pinching Distresses of the Commonwealth. In such cases he hints, that a respect is to be had to Force and Strength, as well as to the persons of those that fight. And, further to encourage them, he promises them pay, or a Reward of two *Solidi*; which they called by the name of a *Pulveraticum* in those days, as that which was given to Slaves, and other persons, for the Sweat and Dust which they endured. Of all Slaves, he signifies, that he chiefly desires those that belonged to Soldiers, as having most reason to understand what belonged to Arms: And, next to them, such as served the Confederate Nations; or the *Dedititii*, or those that had forsaken their own Country, and took the Pay of the *Romans*, giving up themselves to the Interest of the Empire. So careful he was to supply the Army by the lifting of Slaves; believing, as he saith, that free Persons would be sufficiently incited to oppose the Enemy, by the love they bore to their Country. But, for all this belief, two days after, to make the business

L. 16. de
nibus, Cod. Th.
Dat. 15. Cal.
Maii.

Sect. 2.

business more sure, he thought fit to invite them also into the Field ; proposing a " Reward of ten *Solidi* a man, of which, they should receive three for Advance. "

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22. In the mean time, *Radagaisus* was on his way ; having, in Spring, removed out of *Pannonia*, to the *Fulian Alpes* : whence, having beaten off the Guards, he passed over into *Venetia*, and leaving *Aquileia*, *Concordia*, and other Cities, took the most direct way he could toward *Rome*, which he most coveted to be Master of. And he proceeded without opposition, *Stilicho* not opposing himself against him ; discouraged, it seems, by his Multitudes, wherewith he filled all the Countries of *Venetia* and *Æmilia*. Being a Pagan, and Idolater, as the custom was of these Barbarous Nations, he had devoted the blood of all Romans to his Gods. And when he drew near the City, there was a Concourse of all Pagans, who believed him to be powerful ; not only, by reason of so numerous Forces, but by the protection of their Gods : And *Rome* they gave for lost, as having deserted them and their Worship. However, great Complaints thereof they made, and a great stir about restoring their Superstition. The whole City was filled with Blasphemies ; and the Name of Christ was represented as a Plague, and the cause of the present Calamities. But, *Stilicho*, when the Barbarian was come into *Etruria*, a Region full of Mountains and narrow Valleys, then thought fit to set upon him. And *Florence* made so stout resistance, that while he toiled himself about the taking of that City, *Stilicho* had the better opportunity to attack him ; which he did with such success, by the Assistance of *Uldin* and *Sarus*, who commanded the Confederate *Fluns* and *Goths* ; that of his Army, an hundred thousand were cut off, without any loss to the Romans. With the Remainders he drew off to the Mountains of *Fesula* : where, having seated himself upon a narrow Ascent, though thereby he secured his Men from the Assaults of the Pursuers, yet he exposed them to all the Inconveniences of a barren place, and that besieged. For, *Stilicho* begirt him ; and neither suffered any man to come out for Forage, nor any thing to be conveyed in to them. In which condition, finding himself so entangled, that he could neither fight, nor procure any Provisions, he fairly ran away from his men ; but, fell into the hands of the Romans : by whom being put in custody, in a little time, he was slain, together with his Sons. The Barbarians, after the flight of their Leader, overcome with hunger, yielded themselves ; and were sold by Troops, for an *Aureus* a whole Company : but, having contracted a Disease, by long fasting, and ill Diet afterwards, within a few days they all died. Thus was *Italy* relieved, and *Rome* preserved, by the industry of *Stilicho* ; to whom the Citizens were so grateful, as to erect to his Memory a Statue of Brass and Silver, at the *Rostra*, through the procurement of *Fl. Pisidius Romulus*, their *Prefect*.

L. 17. *enst. tit.*
D. 1. 13. *Cal.*
M. 1. 1. *Ab. 1. Cod.*
Just. 1. 1. *compo-*
raria.

Orosius, lib. 7. c.
37.

Statue erected to *Stilicho* at *Rome*.

23. *Arcadius*, all this year, continued his Abode at *Constantinople* ; where he took pains to compose another sort of War amongst his own people. Having no occasion to make use of their Swords, they employed their Pens one against another ; and came to that height of Libelling, that he was constrained to make a very severe Law against that practice. By this Law directed to *Anthemius*, with the Titles of *Prefectus Prætorio*, and *Patritian* ; He makes it capital to all that cast at their Enemies such poisoned Darts : To them also, that read, and do not tear or burn, such Libels : And, further than this, that do not discover the Author thereof, if known unto them. " This was very sharp ; but the state of the times, it seems required it ; although, by what we have said already, it may be suspected, that the disorders of the Court, and badness of Officers, gave occasion to these Libels : and perhaps *Arcadius* might have taken a more effectual Course, by reforming those Abuses, which gave too much advantage to such as were prone to traduce men that were in place and power. They were now busie in building at *Constantinople*, and making up that Breach which had been caused by the late Fire. The *Cirque* had much suffered in it ; especially, the *Porticus*, which to it belonged. When the Ground was to be cleared, and the old Wall taken down ; it happened, that the Images, of the Emperor, or some of his Predecessors, were to be removed ; yet, this would not *Æmilius*, the *Prefect*, adventure to do, till he had first consulted *Arcadius* : for, in those days, great respect, nay, Adulation was paid to the Images of Princes : which, to violate ; and with some reason, if maliciously, was High Treason. And great stir had happened about *Fohn*, the Bishop, his inveighing against the Statue of *Eudoxia*, the Empress ; of whose Party, that he might not be thought to be, he would not offer as much as to take down an Image, without leave obtained. But *Arcadius*, by a Rescript which he directed to him, for an Answer to his Information, tells him ; That, when the case requires, that any *Porticus*, or other House, is to be

L. ult. de *emancip.*
lib. 1. 1. *Cal.*
D. 1. 1. *Ab. 1. Cod.*
Just. 1. 1. *compo-*
raria.

Arcadius takes a severe law against scandalous Libels.

Constantinople repaired.

L. 4. 1. de *op. viri*
publ. *Cal.*
L. 16. *Cod. Just.*
D. 1. 1. *Ab. 1. Cod.*
Just. 1. 1. *compo-*
raria.

be "

Sec. 2. be repaired, it may be free to remove any Image of himself, or his Predecessors, " without consulting him; so it be done with reverence, and the Statue again re- " placed, as it was before, after the finishing of the Work. " Further, to promote the rebuilding of the publick places, and to prevent Fires for the time to come; He prohibited Out-shots and Terraces; commanded the Stairs, leading to the Por- " ticus, to be made larger, and of Stone; that no private Buildings should lean up- " on the publick, but be distant from them fifteen Feet; upon pain of having them " demolished, if any should afterward be found to have raised them within that " compass. "

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L. L. 45, 46, 47.
jud. tit.

A Grievance
arising from
the Estates of
the Emperor's
Daughters, re-
moved.

24. At the end of the year, complaint was brought, that the Country, in several places was oppressed; by reason, that the Farmers, and Managers of the Land belonging to the Emperors Daughters, pleaded privilege more than they ought to do, from several burthens; which therefore, lay heavier upon the backs of their Neighbours. For, we must know that, not only the Domain, or Patrimony of the Prince himself; but also, the Houses and Lands belonging to his Children, ordinarily excused their Occupiers from Taxes and Tributes; and, under pretence hereof many escaped scotfree, who ought to have contributed their Shares to the publick Service. To avoid this Inconvenience, he commands *Anthemius*; that in " all Provinces, where his most Noble Daughters have Houses or Estates; the " number, or quantity, of their Lands shall be entred and registred before the Go- " vernors, in the presence of the *Censuales* and principal *Decuriones*; who, at their " peril, are to see to the equal distribution of the Tax: and shall receive Breives, or " Terriers of the Lands: and, by comparing them with their Books of Taxes, " make a Judgment, what, and what not, are to be excused. " By this Law we see " what Immunities the Imperial Families enjoyed; which they in *France*, draw into example, even, as to the Officers belonging to that King's Children, and the Queen Mother, or Dowager there:

L. un. de Privi-
legiis Domus
Auguste, Cod. T.
10. tit. 25. l. 1.
C. 1. Decem. 3.
est a Cod. 7.

25. In the year CCCCVII, *Honorius Augustus* the seventh, and *Theodosius Augustus* the second time, bore the Title of *Consuls*. *Arcadius* had his Residence this year at *Constantinople*; and *Honorius* was at *Rome*. Enquiring now, for Materials to compose our Intelligence, and taking a survey of the Provinces; we find a sort of Inmates in *Gall*; some that made bold to enter, without asking leave of the right Inhabitants. One *Godigisil*, King of the *Vandals*, who inhabited the part of *Scythia*, lying upon the Lake of *Mæotis*, being provoked by the Example of *Radagaisus*; when he knew that he gave *Honorius* enough to do in *Italy*, resolved to invade *Gall*; which he thought more easily to subdue than that, because of the awe and encouragement of the Emperor's presence in it. Departing out of *Scythia*, with his *Vandals* and *Alans*; out of *Sarmatia* he took some of the *Quadi*, and other *Vandals*, which had there been placed by *Constantine*: Then, passing the *Danube*, he entred *Germany*; and thence, either by fear, or hope of Booty, excited several people to joyn with him; as, the *Marcomans*, *Heruli*, *Tuncilingi*, *Suevi*, *Alamans*, *Saxons* and *Burgundians*: With whom he hastened to the *Rhine*. There the *Franks* made some opposition; either out of a sense of the Faith they had given to *Stilicho*, by vertue of a late League and Alliance; or, for that they were unwilling, that the Province, of which they hoped to be Masters themselves, should be over-run by so numerous an Enemy. But they, being overpowred by numbers, were forced to forbear: And so *Godigisil*, with his *Vandals*, passed over into *Gall*, the last day of the last year; or, on the Eve of that *New Years Day*, wherein *Honorius* the seventh, and his Nephew *Theodosius* the second time, took the Ensigns of the Consulship. They presently fell upon the adjoining Countries, and miserably wasted them, viz. *Germania Prima*, and *Belgica Secunda*; and, notwithstanding whatever the Officers of *Honorius* could attempt, proceeded in their barbarous fury. *Magontiacum*, or *Mentz*, they rased; many thousands of the Inhabitants being murdered in the Church: And *Rheimes*, *Amiens*, *Tournay*, and other Cities, fared very little better; being rifled, and other ways used, at pleasure. *Orosius* writes, that these Nations of *Alans*, *Suevi* and *Vandals*, with many others, being excited by *Stilicho*, defeated the *Franks*, passed the *Rhine*, invaded *Gall*; and, with a direct and violent Course, pierced as far as the *Pyreneans*: By which being stopped in their Carier, they poured themselves back upon the Neighbouring Provinces.

A. D.

407:

Honorio. -
Theodst
2. A. A. C.

Godigisil in-
vades Gall.

Prosper. vide
Gonium, ad
An.

Lib. 7. c. 40.

26. While they in this manner raged up and down the Provinces of *Gall*, In *Britain*, he adds, one *Gratian*, a *Municeps* of the Country, was made Tyrant of the Island; and shortly after slain. In his room one *Constantine* from the mean-
est

Se. 2. *est* Employment in the Army was placed; being chosen meerly for the hope of his name, without the least merit; who presently after his usurpation passed over into *Gall*. The truth is, the *Roman* Empire now decaying, and Barbarous Nations roving every where up and down throughout the Continent; the Armies in this Island fearing, for all the water that flowed betwixt them, that the flame of their Neighbours burning House might reach over, and take hold of their Habitations; that they might have some General, or Sovereign Commander, if need were, to repel the *Barbarians*, betook themselves to the election of Emperours. First, they placed one *Mark* in the Imperial Seat; and him for a time they obeyed, as in those parts having the chief Command. But afterward having made him away, because he did not in his conduct of Affairs, answer their expectations; they set up one *Gratian*, a Countryman of their own; they crowned him, invested him with an Imperial Robe; and dutifully attended upon him as their Prince: yet upon a dislike, at the end of four Months, they deprived him also of this his Empire; took away his life, and made over the Sovereignty to one *Constantine*, a Soldier of the meanest condition, only because his name imported, as they thought, prosperity and all good success. For they conceived hope, that he by that fortunate name would constantly and fortunately govern the Empire, and overcome all its Enemies, as *Constantine* the Great had done, who in *Britain* had been advanced to the Imperial Dignity. This *Constantine* passing over into *Gall*, carried over with him the Flower of the *British* Youth, and so utterly exhausted that remainder of Military Force which had been left by *Maximus*, in the Island; which now enervated of its strength, fell into such inconveniences, as in a small time procured the Destruction of the Inhabitants it then nourished; which it changed for other Lords.

Constantine set
for Empe-
or here in
Britain.

*Zosimus lib. 6.
ad initium, p.
824.*

27. *Constantine* putting to Sea from *Britain*, made *Fustinian* and *Nevigastus* Commanders over the *Celtick* Soldiers; and taking easily the City of *Bologne*, as easily induced the *Roman* Forces in all Countries, to joyn with him. In the mean time the *Vandals*, at a farther distance, wasted the parts that lay upon the *Rhine*; the violence of whom *Limenius* the *Praefectus Praetorio*, and *Cariobandes* the *Magister Militum* not able to sustain, at least so they imagining, fled into *Italy*, and found *Honorius* at *Rome*, whither *Stilicho* also about this time went to consult him. For, as *Zosimus* tells the Story, *Stilicho* having found that the Ministers of *Arcadius* were his great Enemies, and bent to do him mischief, purposed to send *Alarich* into the Bowels of that part of the Empire, and draw over to *Honorius* the Cities of *Illyricum*. For this purpose he made an agreement with *Alarich*, who expected when notice should be given him to make it good; but *Stilicho* was diverted by the invasion that *Radagaisus* made into *Italy*. Having defeated the *Barbarians*, he returned with great reputation to *Ravenna*, the Metropolis of *Flaminia*, this Writer tells us, an ancient City and Colony of the *Thessalians*, being called *Rhene*, because flown about with water, and not because it was built by *Remus* the Brother of *Romulus*; for affirming which, he taxeth *Olympiodorus* the *Theban*, a *Pagan* Historian also of this time, who began his History with this very Consulship, and extended it to the CCCCXXV Year of our Lord. At *Ravenna*, *Stilicho* was ready in a short time with an Army to invade *Illyricum*; and, by the assistance of *Alarich*, to take Cities from the Dominion of *Arcadius*, and annex them to that of *Honorius*; when the Design was thwarted by two Impediments. For News was brought that *Alarich* was dead; and Letters arrived from *Rome*, sent from *Honorius*; whereby he was informed concerning the usurpation of *Constantine* in *Britain*, and his passing over into the parts of *Gall*. The rumour of *Alarich* his death was counted to be very uncertain; and the report of such as came afterward, and told how things stood, confirmed it so to be. But that concerning the promotion of *Constantine* found credit, and obliged *Stilicho* to defer his Expedition into *Illyricum*; and go to *Rome* to advise what was best to be done.

usurpation
versus *Stilicho*
in *Illyricum*.

he *Honorati*
commanded
furnish out
letters.

28. To what War or Expedition soever it related, the *Honorati* were lately commanded to furnish out Soldiers; and amongst the rest, the Tribunes and Officers of the Army, though through their own merit and industry they had obtain'd their preferments, were called on as well as the rest. This seeming unreasonable, *Honorius* directed his Edict to *Stilicho*, by the Title of Comes and *Magister Militum*; whereby he required, that a Distinction should be made betwixt such as had so risen by their merits, and such as had obtain'd the titular Honours of Tribunes and Praefects by way of Codicils or Letters; allowing the former sort the privilege of being exempt from finding *Tirones*, as well in reference to the Tax lately

*L. 18. de Tironi-
bus. Cod. T. &
L. ult. de vetera-
nis Cod. T. Dat.
11. Cal. Apr.*

A. D.
407.

Sect. 2.

lately made, as such occasions for the time to come ; with this further order, “ that the *Comites* or *Duces Militum* should take nothing of them at their promotions ; it being otherwise a part of the profit of great Officers to receive Fees from such as were advanced in the Army. “ This could not but be seasonable to encourage Military Men at this time, when there was need of them, as also, perhaps it was to gratify the *Dectura* of *Rome*, by confirming whatever privileges had been formerly granted them from himself, or his Predecessors, by a Rescript inscribed to *Curtius* the *Præfectus Prætorio* of *Italy*. But as he had reason to encourage deserving persons, there was as great reason he should not be too lavish in a time of so great expence ; much less be imposed upon, and cheated in his Largesses. Former Princes had ordained, that all Petitions should be void, which were put up for any abatement of Taxes, or other immunities relating to the Revenue, except they were drawn and ordered by the Palatine Officers belonging to the *Comes S. L.* or High Treasurer. The reason was, because these Officers having the management of such matters in their hands could instruct the Emperour, and inform, if any fraud concerning number of Acres, or other things, was obtruded upon him. To add further vigour to these Laws ; whereas the punishment formerly of such Petitioners as did not have recourse to these Officers, and frame their business after this method ; was loss of the threefold of the worth of what they petitioned for, he finds reason to change it from three to four.

Arcadius kind
to those about
him.

29. *Arcadius* in the East had no such occasion to oblige his Military Men ; or to look to the exactness of his Incomes ; the Western Provinces being now become the Seats of War ; and *Italy* it self the great Cockpit whither the Gamesters for the most part, directed their courses, to contend for the Mastery. But he was pleased to be kind to those about him, or that served him in his Palace ; in that, whereas ten years ago he had given immunity from the Prætorship, or exhibiting of Games, to such as after having laudably served their time in the Army, had been raised to the Dignity of *Duces Rei Militaris*, he now thought fit to grant the same Immunity to his *Proximi* of the *Scrinia*, if they had already discharged their Employments. “ And he found reason to vindicate the Rights and Privileges of the *Cohortales*, or such as served the Governours of the Provinces ; finding much about the same time, that it was the practice of some *Curiales* or others, to pretend to be of their number, though they were never entred in their Roll, nor, by any duty they performed, had any right to their Privileges and Allowances. By these tricks sometimes they stepped into these preferments, which were only belonging to them that underwent the burthen ; and the publick service was ill discharged, these persons not being obnoxious to examination by torture, as the *Cohortales* were, being meerly *Conditionales*, or obnoxious to this kind of censure, as were amongst them the *Chartularii*, *Tabularii* and *Exceptors*. To prevent this, he forbids, that any be admitted, for the time to come, to execute matters belonging to these Men, if they were not first matriculated, or entred in the Roll ; but for such as at present did it, he commands that they be detained : “ Nay, though by any Rescript directed to any of the inferior Judges, they were discharged from the obligation, he orders, that they be drawn back ; such only being to be excused, as were freed by any Order sent to the *Præfectus Prætorio* himself ; whose Prerogative, as in other things, so in this was the more remarkable. “ At the latter end of the Year he found reason to abate the rigour of the Law made two years before against the Ordinary Judges (*Consulares* and *Præsidents*) their making use of his Palaces. They had indeed *Prætoria*, or Houses destined peculiarly to their service ; but they were ordinarily built in Cities or Towns that stood upon the publick *Roman* way. But they had often occasion to travel through the Countries and Villages where none of these ways lay, neither had they any *Prætoria* near. This put them to great inconveniences for want of Accommodation : and to redress them, *Arcadius* now tells *Anthemius* the *Præfect*, that in such places they shall have liberty, notwithstanding the late Law, to make some stay in his Palaces, as their business requires.

Arcadius the
Emperour
dies.

30. *Bassus* and *Philippus* were *Consuls* for the Year that next followed, or the CCCCVIII of our Lord, which was the last of *Arcadius* the Emperour, who died, as they say, that speak most probably, on the first of *May*. By his Wife *Eudoxia*, the Daughter of *Bauto* the *Frank*, as *Philostorgius* writes, and who died some two years before him, he left five Children, which were his Son *Theodosius*, and four Daughters, *Pulcheria*, *Flaccilla*, *Arcadia* and *Marina*. He died in the flower of his Age, whereof he had not yet completed the thirty first year ; having reigned

A.

40

L. 9. de I
Cod. Th. L
Id. Apr.
Cod. Just.

L. 4. de h
tate con.
Cod. Th.
tit. 12.
Prælat. 2
Civili ill.

Com. S. 1
Jun. An.
Cod. Just.

L. 13. de
mis, C
Th. Dat. 2
Febr. Abt
Cod. Just.

L. 20. de
tulib. Cod
L. 10. Cod.
cod. tit. D.
Cal. Apr.

L. 2. Ne q
Palatilis
at Cod. Th
tit. 10. Da
Cal. Dec.
Cod. Just.

A.

40

Basso &
lippo C

et. 2. reigned together with his Father twelve, and after his death thirteen, three Months, and fifteen days. Leaving his Son so exceeding young, and believing his Brother *Honorius* to bear him no great kindness; for fear he should be wronged, he left him to the Tuition and Protection of *Isdegerdes*, the King of *Persia*, with whom he had entred into a strict League and Alliance for an hundred years. He undertook it sincerely, and discharged it as faithfully, sending in his room to *Constantinople* one *Antiochus*, a most prudent Man, whom some will have to have been sent also Ambassadour to *Honorius*, to procure peace and good understanding betwixt him and his Nephew. Some write also, that *Honorius*, moved with commiseration toward the Child, determined to hasten to *Constantinople*, there to take order for his safety and authority; but was hindered by the usurpation of *Constantine*: and afterward having intention to send *Stilicho*, the discovery of his treasonable Designs, prevented that. But however *Antiochus* managed matters in the room of *Isdegerdes*: the great Pillar of the Eastern Empire, doubtless, was *Anthemius*, the *Præfectus Prætorio*, who, as *Socrates* tells us, was the main Man that stood by the young Emperour in his Government. He writes, that he compassed *Constantinople* with a strong Wall; that he seemed, and was in reality, one of the wisest of that Age: that he never enterprised any thing without good advisement, conferring still with some of his Friends, concerning the business he went about; but above all others, made use of the advice of *Troilus* the Sophist, a Man very wise also, and of great experience. But *Pulcheria*, the eldest Sister of the Emperour, though at her Father's death said to be not ten years old, yet growing up to riper years, sustained a great share of the care and troubles of the Empire, of whose prudence, piety, and other virtues, very much is said.

31. There are some Laws extant, bearing date from *Constantinople* before the death of *Arcadius*, and yet having not his name prefixed; but only those of his Brother and Son. Either in the Date or Inscription, there is some error; but however, they were made either not long before, or not long after his death, One of them is to provide for the Necessities of *Illyricum*, as it terms them, in order to which it requires, that no privilege be pretended to excuse any person from the building of Walls, and the finding and conveyance of Provisions. "This must have relation to the attempts made by *Stilicho* this year, against the Cities of *Illyricum*, of which we shall shortly hear more from *Zosimus*, who would have us believe, that his aim was only to increase the Dominions of his Master *Honorius*; whereas other Writers make it a design, of conferring the Empire upon *Eucherius* his Son. This Edict is inscribed to *Herculus* the *Præfectus Prætorio* of *Illyricum*, whose District was now in danger. And about the same time, that of *Anthemius* the *Præfect* of the *East*, was not in good repose. For, now did the *Isauri*, those ancient Thieves (the place of whose Habitation being so convenient for harbouring of Robbers, required as much Guard upon it, as did a Limit or Border of the Empire) renew their Depredations upon the Neighbouring Countries. Toward the end of *April*, a Rescript was directed to *Anthemius*, whereby he was enjoined to give notice to the Judges of the Provinces, (as of *Isauria*, *Pamphylia*, *Cilicia*, *Lycaonia*, and *Pisidia*) that they should not forbear the examination by torture, of these Thieves, not on any day in *Lent*, nor of *Easter*; that the discovery of their wicked designs might not be deferred; it being easie to be hoped that God Almighty would not be angry for doing that, by which the safety and preservation of many persons would be procured."

32. Whether these Laws were made before or after the death of *Arcadius* is uncertain; but he being gone, certain it is, that *Anthemius* and *Troilus* applied themselves to the management of publick Affairs, and reforming such things as had been out of order, during his Government. One of these, the neglecting or discouraging of Messages from the Provinces, seems to have been; though *Synesius* in his Epistle to him concerning such grievances as pressed most upon the Empire, desired him to be free and easie in admitting the complaints of the People. "That they desired his Son should so be, now appears from an Edict directed to *Anthemius* this Year; whereby he is commanded to receive, all such complaints and requests; to enter them in his Office, and then make report to the Emperour of what is worthy his consideration, who promiseth all necessary remedies for the ease of those that were aggrieved." One complaint there was, that the *Agentes in Rebus*, and the *Palatine* Officers, belonging to both the High Treasurers, who were wont to be sent into the Provinces, to urge the collection of Tributes, were found to exact or gather the Money themselves; which because of their insolence and ava-

Sect. 2. rice much to the disturbance and oppression of the People; especially of the Province of *Achaia*. *Anthemius* is ordered to take care, that for the time to come, "this be no more practised; but that these Men only urge the Governours of Provinces, by often repairing to them, and their Officers, to the Collection. If any Governour, either to be rid of their importunity, or for any other reason, permit them to levy the Tributes, the Law imposes a Mulf of twenty pounds of Gold, both upon him, and upon his Office.

A. 1

401

 L. 17. de
Honorib: et
Th. 2. de
none largit
lium tituli
Cod. Just.
7. Id. Dec.

Honorius en-
deavours to
reform several
Abuses at
Rome.

33. *Honorius* this year, for some time, was at *Rome*; whence afterward he removed to *Bononia* and *Ticinum*; and, at length, by *Milan*, to *Ravenna*. While at *Rome* he took care to gratifie the Citizens by providing better for their sustenance, and confirming the Privileges granted to their several Bodies. Observing also that Judges were often drawn aside by the awe of the *Honorati*, or great persons; who, when they had causes to be tried, would come into Court, and sit with the Judges; he now prohibited, that they should be admitted to sit with them, when the merits of their causes were dispatching; as also, that any whose Suits were depending, should visit them at Noon time. If any should offend in this kind, he inflicts a Fine of five pounds of Gold upon the Judge, as much upon his Office, and as much upon any of the *Honorati*, so offending. The latter part of this Law is but agreable to what had been formerly ordained by *Valens*, *Gratian* and *Valentinian*, against visiting of the Ordinary Judge, in the Afternoons; and *Cuiacius* observes, that it had been also provided by *Augustus* in the *Fulian* Laws, concerning Judicature (by *Macrobius* called Edicts,) that neither the Defendant nor Accuser should enter the House of the Judge: moreover, by the same Laws, a Judge was prohibited to come into the Houses of other persons; as under *Tiberius* a *Senatusconsultum* was made, that Senators should not set their Feet within the Houses of the *Pantomimi*; and another under *Claudius*, which forbade Soldiers to enter the dwellings of Senators under pretence of saluting them; such diversity is there in the state and condition of times, according to which, Legislators are to take their measures.

 L. 8. de S:
Cod. Th.

 L. unic.
officio Jac.
Circulium.
Th. l. l. Cod.
cod. tit. h.
sumpta. Da
Non. Feb.

 Observ. li
34.

Gall miserably
wasted by the
Vandals.

34. But, while *Honorius* lay at *Rome*, the Provinces of *Gall* were miserably afflicted by the *Vandals*, who passing out of *Belgica* into *Aquitain*, wasted all the Country, together with those of *Novempopulania*, *Lyons* and *Narbon*. Now it was, that, as *S. Hierom* writes, innumerable and most savage Nations, had seized upon all *Gall*; that all the Tract lying betwixt the *Alpes*, and the *Pyreneans*, the Ocean, and the River *Rhosne*, was wasted by the *Quadi*, *Vandals*, *Sarmatians*, *Alani*, *Gipedes*, *Heruli*, *Saxons*, *Burgundians* and *Pannonians*. *Maguntiacum*, now *Ments*, in times past a noble City, saith he, is taken and destroyed; many thousands of Men having been killed in the Church: those of the strong City of *Rheimes*, *Amiens*, *Arras*, the Country of the *Morini*, *Tournay*, *Nemete* and *Argentoratus* (or *Strasbourg*) are translated into *Germany*. The Provinces of *Aquitain*, *Novempopulania*, of *Lyons* and *Narbon* are over-run, a few Cities excepted, and they are vexed, without by the Sword, and within by Famine. I cannot without tears make mention of *Tolouse*, which hath hitherto been preserved from Ruine, by the merits of holy *Exuperius* the Bishop. *Spain* it self, as about to perish dayly, trembles, calling to mind the Irruption of the *Cimbri*, and other such dismal Stories. *Constantine* the Tyrant, at the same time endeavoured to establish himself as Lord, of what these *Barbarians* left behind them. To interrupt him in his endeavours, one *Sarus* was sent by *Stilicho*, with an Army; who meeting with *Fustinian*, killed him with the greatest part of his Forces; and having got very much booty, when he heard that *Constantine* had removed himself to *Valentia*, a City he thought very proper for his defence, he there resolved to besiege him. *Nevisgastes* the other Commander, he treated with, and kindly received him; but afterward slew him, though he had given his faith to the contrary. Into their places *Constantine* promoted *Edobechus* a *Frank*, and *Gerontius* born in *Britain*; the skill and valour of which persons were so well known to *Sarus*, that for fear of them, he rose up and departed from *Valentia*, after he had besieged it seven days. They pursued him, and that with such vigour and execution, that with much labour he hardly escaped to the *Alpes*, where he gave up all his Booty to the *Bacanda*, who there met him, to suffer him to have free passage into *Italy*. He being removed, *Constantine* gathered together all his Forces, and resolved to fortifie the *Alpes*, which lay in the way betwixt *Italy* and *Gallia Celtica*, being three in number, and known by the Names of *Cettia*, *Poenine*, and *Maritima*. This he did, and also fortified the *Rhine*, to provide as well against the Insults of the *Barbarians*, as of the *Romans*, though

Ep. 11.

 Zosimus li
824.

Constantine
prospers there.

Zosimus

Sect. 2. *Zosimus* writes, that he fortified the *Alpes* to keep the Barbarous Nations out of *Gall*; as if they had come out of *Italy*, and were not in the heart of *Gall* already. And, he hints, as truly, that, since the time of his dear *Julian*; the *Rhine*, or the Limit thereof, had, till now, been neglected.

A. D.

408.

He gives the
Title of *Cæsar*
to his Son *Con-*

35. Having taken such order for his Affairs in *Gall*, he adorned *Constans*, his eldest Son (who had been a Monk; and, as our *Brittish* Writers say, in the Monastery at *Winchester*) with the Title and Habit of *Cæsar*, and sent him into *Spain*; all the Nations whercof, he was ambitious to bring into subjection; both to augment his own Dominion, and to remove the power, which the Kindred of *Honorius* had in that Country: whence he feared they might set upon him from beyond the *Pyreneans*, at such time as the Emperor might send another Army over the *Alpes*; and so, overpower, and suppress him. *Constans*, with one *Terentius*, his General, and *Apollinaris*, his *Præfectus Prætorio*, passed over into *Spain*, furnished and attended sufficiently; and set himself against such as he there found of the Kindred of *Theodosius*, who (as *Zosimus* cannot forbear to vent his malice against that Prince) disturbed the Affairs of their Native Country. They made use of the Soldiers belonging to *Lusitania*, or *Portugal*: And when with them they could not prevail, got together a multitude of Slaves and Husband-men; and so managed their matters, that they were in a fair way to succeed, and make an end of *Constans*. But, for all this, the Tide turned; and, instead of making him a Prisoner, they and their Wives were taken by him, and committed to custody: their names being *Terentianus* and *Didymus*. They had two Brothers, *Theodosius* and *Lagodius*; who, upon notice of it, fled, and made their escape; the one into *Italy*, and the other into the East. They themselves were carried away by *Constans*; who (after he had committed the care of the *Pyreneans* to *Gerontius*, to be kept with a Guard of *Galls*; though the *Spanish* Army desired to have the Charge) returned to his Father, and presented them to his View; who instantly commanded them to be put to death.

Who, in *Spain*,
seizes the
Intimen of

By being
led, *Honorius*
marries *Ther-*
mantia.

36. Thus went matters in *Gall* and *Spain*; when, in the mean time, the Emperor *Honorius*, having lost *Mary*, his Wife, the eldest Daughter of *Stilicho*; desired, that *Thermantia*, her younger Sister, might be given him in Marriage. *Stilicho* seemed to be averse to it: But his Wife *Serena* urged him to it, upon this Account. When *Honorius* contracted Marriage first, with *Mary*; her Mother knowing that she was not ripe for his Bed; and yet, not able to prevent or defer the Wedding: concluding also, that it was to offer violence to Nature, to have her Virginity taken from her; used the Art of a certain Woman, skilled in such goodly Mysteries: and, by her endeavours brought it to pass, that the Girl lived, and lay with the Emperor; but he neither had any Will, or Power, to enjoy her. Sometime, she thus lived and died a Virgin: But, after her death, her Mother, desiring to have some Issue by *Honorius*; that she might not be deprived of that great power and place which she enjoyed, used her endeavours to marry him to her second Daughter: Which being done, she died also not long after; the same thing having happened to her, as to the former. While this was transacting, News was brought to *Stilicho*; that *Alarich*, having quitted *Epirus*, and passed the Straits lying betwixt *Pannonia* and *Vegetia*, had encamped himself at a Town called *Æmon*; built, as *Zosimus* tells you, by the *Argonauts*, between the upper *Pannonia* and *Noricum*. From *Æmon* he removed, and passed the River *Aquilis*; as also, the *Appennine* Mountains; which closing up *Pannonia*, afford very difficult passage to such as travel to *Noricum*; these Straits being easie to be kept by a few Men, against a great multitude, which would force their way. Having passed these Straits, from *Noricum* he sent Messengers to *Stilicho*, to demand Money, both for the delay he had made in *Epirus*, and also, for this his Expedition, which, thereupon he was forced to undertake. *Stilicho* left the Messengers at *Ravenna*, and went to *Rome*, to consult the Emperor and Senate, what was to be done in this Affair. The Senate being assembled in the Palace, and the Question put, whether War should not be made? very many gave their Voices in the Affirmative: Only, *Stilicho*, and a few besides, who, by fear, were brought to be of his Party, were of the contrary opinion; and advised to make Peace with *Alarich*.

Alarich marches
towards
Westward.

Stilicho and
his Party for
peace.

37. They that preferred War, desired *Stilicho* to shew his Reasons, why he was so much for Peace, which was to be bought with money too; to the disgrace of the *Roman* Majesty. He answered; because *Alarich* had continued so long in *Epirus*, for the advantage of the Emperor; that, joyning with himself, he might make War upon *Arcadius*; and, taking *Illyricum* out of his hands, add it to the Dominion

Why.

Sect.

The Senate
resolves it.But Honorius
resolves for
Ravenna.

This, he affirmed, would have come to pass, if his Expedition had not been hindered by the Letters of *Honorius*; in expectation whereof, *Alarich* had consumed so much time. With this, he shewed them the Emperor's Letters, and laid the blame upon *Serena*, her labouring to preserve Amity betwixt the two Princes. *Stilicho* seeming to speak nothing but Sense, the Senate was content, that four thousand pounds of Gold should be paid to *Alarich*; and that, for Peace; though most consented, against their Judgments, merely for fear of *Stilicho*. And, *Iampadius*, a man of great Birth and Dignity, plainly told them; that, This was not a Peace, but a *Paction of Servitude*: For which liberty of speech, fearing he might lose that of his person, when the Senate was dismissed, he betook himself to the next Church of the Christians. *Stilicho*, having, by virtue of this *Senatus-Consultum*, made Peace with *Alarich*; prepared all things for the Expedition, which he had designed; when the Emperor told him, he was resolved to go from *Rome*, to *Ravenna*, to see and care for the Army, which was to grapple with so considerable an Enemy. And, this he said, not of himself, but was moved thereto by *Serena*: She desiring he should be in a City of most safety; that, if *Alarich* should break the Peace, he might not yet get the Emperor into his Power; whom she endeavoured to preserve; her safety depending upon that of his. However, *Stilicho* did nothing approve of this his Journey; and devised several ways, how to prevent it: which, not being effectual, he procured *Sarus*, the Captain of the *Barbarians*, that lay at *Ravenna*, to make disturbance; not with any design of Innovation, but to affright the Emperor, and divert him from his design. But, *Honorius*, not at all yielding to these Attempts; one *Fustinian*, an Advocate of great note, whom *Stilicho* had made choice of for his Assessor and Councillor; being a man of excellent Wit, smelt out the Emperor's design, by certain Tokens: And, knowing that the Troops which lay at *Ticinum*, or *Pavia*, bore ill will to *Stilicho*, guessed what would become of him, if the Emperor should repair thither. He ceased not therefore, still to desire him to prevent the Emperor's going. But, when he perceived, that *Honorius* would not hearken to what *Stilicho* said; fearing that, for their Familiarity sake, he might make shipwreck of his Fortune with him, he fairly left him, and went his way.

38. Before this, the News of the death of *Arcadius* was brought to *Rome*; and, after the departure of *Honorius* for *Ravenna*, was confirmed. *Stilicho* being got to *Ravenna*, and *Honorius* to *Bononia*, a City of *Æmilia*, seventy miles distant from *Ravenna*; *Stilicho* was thither sent, to chastise and reduce the Soldiers into Order, who had mutined by the way. He, having called them together, and told them, how the Emperor's Command was, that they should not only be chastised, but every tenth man be taken out, and put to death; struck them with such terror, that they all fell a weeping; and drew him to such a Commiseration of their Condition, that he promised them pardon from the Prince. This *Honorius* ratified: and then they fell into a Consultation about the publick Affairs. *Stilicho* had a desire to go into the East; and to settle the Concernments of *Theodosius*, the young Son of *Arcadius*; who stood in need of Assistance: and *Honorius* himself thought of taking a Journey thither, to put the Affairs of his Nephew into good Order. *Stilicho*, having no mind to hear of this, by shewing him the vast Expence he must make in the Expedition, deterred him from his purpose. Besides, he urged, that it was highly necessary that he should not be much absent from *Italy*, nor *Rome* it self; because *Constantine*, the Usurper, had over-ran all *Gall*, and had taken up his Station at *Arles*. And, yet farther he pressed, that *Alarich* was also to be feared; who had a great Power of Men, was a *Barbarian*, and deceitful: who, if he found *Italy* naked, and destitute of Aid, would not fail, suddenly to invade it. In conclusion, he added, that the best way was to send *Alarich* against the Tyrant, with part of the *Barbarians* he had with him, and the *Roman* Legions joyned together; which should be jointly commanded by him, and the Officers belonging to the said Legions. And, that he himself should be, by the Emperor, dispatched away into the East, with Letters, containing the sum of what he would have there transacted.

Stilicho desires
to be sent into
the East.

39. *Honorius*, approving of all that was said by *Stilicho*, wrote Letters to the Emperor of the East, and to *Alarich*; and departed from *Bononia*. But, as for *Stilicho*, he, notwithstanding, continued where he was; neither taking his Journey for the East, nor putting in Execution any thing that had been resolved. Neither did he remove those Soldiers that lay at *Ticinum*, to *Ravenna*, nor any other place; lest, having opportunity of speaking with the Emperor, they should put him upon

4.

40

sect. 3. upon attempting something against himself. Thus, *Stilicho*, being neither conscious of any unworthy thing, designed, either against the Emperor, or the Army, behaved himself. But, there was one *Olympius*, born about the *Euxine* Sea; who had got a splendid Employment at Court: and, under the show and pretence of Christian Piety, covered great Wickedness; and, counterfeiting great Sobriety and Modesty, was wont to discourse much with the Emperor. He offered many things to beget prejudice in him against *Stilicho*: And, in particular, that he designed his Journey into the East for no other cause, but that, having taken *Theodosius* out of the way, by sending him to another World, he might transfer the Sovereignty of those parts, upon his Son *Eucherius*. This he insinuated upon the way, as he had time and convenience: And, when they were come to *Ticinum*; visiting there the sick and maimed Soldiers, he laid hold also on them by these Charms. Four days had but passed after his Arrival, when the Emperor called the Soldiers together, shewed himself to them, and incited them to the War against *Constantine*. Of *Stilicho*, yet, there was no mention, till *Olympius* openly beckened to the Soldiers, as it were, putting them in mind of what he had in private discoursed with them. Hereat they fell into a rage and madness, and killed *Limenius*, who had been *Præfectus Prætorio* in the Parts beyond the *Alpes*; together with *Chariohanes*, a *Magister Militum*, also in those Quarters: Both whom, had made their Escape from the Tyrant; and were come to the Emperor, to *Ticinum*. After this, they put to death *Vincentius*, who was *Magister Equitum*; and *Salvius*, the *Comes Domesticorum*: And afterward, when the Emperor was withdrawn, and the other Magistrates had made their Escape, they poured themselves into the City; and pulling them out of the Houses where they thought to conceal themselves, they slew them, and plundered the Town.

the Soldiers
into a Mu-
ny.

A. D.
408.

40. The mischief being grown to that height, that it seemed incurable; the Emperor, casting a little Coat about him, without his Robe, or his Diadem, ran amongst them; and, with great labour and pains, could hardly appease their fury. *Nemorinus*, Master of the *Palatine* Ranks; *Patronius*, the *Comes Rei Privata*; and *Salvius*, whose Office it was to dictate such matters as the Emperor ordered; whom after the time of *Constantine*, they called *Questor*; after they had escaped from the place of Mutiny, and thought they were now safe, were also slain; of whom, *Salvius*, though he hung at, and embraced the very feet of the Emperor, could not obtain his Life. The Uproar continuing till the Evening, the Emperor withdrew, lest they should attempt any thing against his own Person: and, in the mean time, they murdered *Longinianus*, who was *Præfectus Prætorio* of *Italy*. All these were Magistrates that perished by the madness of the Soldiers: but, of others who fell into their hands by chance, so great a multitude miscarried, as was not easie to be reckoned. The Report of the Sedition being brought to *Bononia*, where *Stilicho* as yet continued, did exceedingly perplex him. He called together the Officers of the Confederate *Barbarians*, and consulted with them what was to be done. It was unanimously resolved; that, if the Emperor was killed, of which there was a rumour; then, all the Confederates should fall upon the *Roman* Soldiers; and, by chastising them, keep the rest in order. But, if the Magistrates were only made away, and he were safe; then should the procurers of the Mutiny be punished. Yet, *Stilicho*, when he heard that *Honorius* was alive, and no violence offered to his Person, left off thoughts of going to chastise the Army, and resolved to remove to *Ravenna*: for, he considered how numerous it was; he knew, the Inclinations of the Emperor toward himself were inconstant; and he thought it neither laudable in it self, nor safe, to set the *Barbarians* upon the *Roman* Soldiers. While he was anxious, and deliberated about these things, the Officers that he had consulted, endeavoured to persuade him to put in practice what they had resolved: But, when they could not accomplish it, they purposed to stay in their several Quarters, and expect what the Emperor would determine concerning him. But *Sarus*, who, in Strength and Dignity, excelled all the other *Barbarians*, caused his Men to kill all those of *Stilicho's* Guard, who kept constant Watch about him: and broke into his Tent; where he was musing, what would be the Issue of these Difficulties.

41. *Stilicho* finding, that the *Barbarians* which he had about him, differed also amongst themselves, went to *Ravenna*; and advised such Cities, where the Wives and Children of the *Barbarians* dwelt, that they should not permit any of those Nations to come amongst them. But, *Olympius*, who now inclined the Emperor as he pleased, sent his Letters to the Soldiers that lay at *Ravenna*; which commanded, that they should lay hold on him; and commit him to free Custody. He ha-

ving

Señ. 2. ving notice thereof fled to a Church of the Christians, late at night; those that were with him arming themselves and their Slaves, and expecting what would be done. When it was day, the Soldiers entered the Church; and, in the presence of the Bishop, affirmed to *Stilicho*, upon Oath, that they had not received from the Emperor, any orders to kill him; but only to keep him safe. But when he was out of the Church, in their Hands, other Letters were brought by him that was sent with the former, wherein he was Adjudged to Death, for the Offences he had committed against the Common-Wealth. His Son *Eucherius* had now escaped and was fled toward *Rome*; but he himself was led to Death; which when the *Barbarians* that were near to him, his Servants and Friends seeing, were about to make resistance and Prevent, he deterred them from it, and in a manner, offered his Neck to the Sword; a Man the most modest of all others, who at that time enjoyed great Power and Authority. For though he had married the Daughter of *Theodosius* the Elder his Brother; and had been intrusted with the Empires of both *Theodosius* his Sons, and moreover had born the Office of a General, three and twenty Years, yet was he never found, for Money, to have advanced any to commands in the Army, or to have converted the Allowance of Soldiers to his own Gain. And having but one only Son, he raised him no farther than to the place of a *Tribune of the Notaries*, appointing that, as a boundary to his preferment. Now that Men that are curious in these matters, may not be ignorant of the time of his Death, it fell out, on the tenth Day before the Calends of *September*, in the Consulship of *Bassus* and *Philippus*, the Year that the Emperor *Arcadius* died.

Stilicho put to
Death.

A. 1
401

42. This is the whole account which *Zosimus* gives concerning the Death of *Stilicho*, and the occasion of it; wherein he endeavours to render him innocent, and to have unjustly suffered: And with him agrees *Olympiodorus* also, an Historian of those times. But the general consent of Writers is, that he was justly put to death, and that for several Crimes of no less consequence than high Treason. They accuse him of bringing *Alarich* into the Dominions of *Honorius*; and of letting the Barbarous Nations, as the *Alans*, *Suevi* and *Vandalls*, into the Western Provinces. Some say he attempted to poison *Honorius*, and that he stamped Money, though without the Imperial Habit, or Image of an Emperor. The drift of all his designs, they say, was this, that (as *Zosimus* writes of *Olympius* his Insinuations,) he might transfer the Title and Dignity of Emperor, upon his own Son *Eucherius*. They who take a View of the opinions of these Dissenters, observe, that the *Pagan* Writers acquit him of the Crime, and that *Christians* lay it heavily to his Charge. But not only *Christians*, but one *Pagan* Author also, a Poet of this time, *Rutilius Numantianus* in his Itinerary, writes of him as a betrayer of the Empire, and as him that called the *Barbarians* into *Italy*. This he did, they say, to give disturbance to the Affairs of *Honorius*; to weaken the Empire, and make it more capable of his Attempts, when a seasonable time should come, for which he reserved his Friend *Alarich*. Indeed *Zosimus* tells us that the purpose of *Stilicho* was, when he saw that the Courtiers at *Constantinople* hated him, by contracting a League with *Alarich*, to lay the Cities of *Illyricum* to the Dominion of *Honorius*; and *Olympiodorus* saith, that he sent for *Alarich* to subdue *Illyricum*; but gives another Reason for it; because that Province had fallen to *Honorius* his share in the partition made by *Theodosius*.

Orosius, *Historia*, *Philippicus*.

Quo magis
census dei
lichonis
burni, *P*
arcani qu
Imperii.

43. To say truly, the management of the War against *Alarich* in *Italy*, so much as we can know of it, was very odd. *Orosius* though he said but little when he wrote thus: *I say nothing concerning King Alarich often beaten with his Goths, often taken (as in a Pound or Net) and alwayes dismissed*, yet had reason to think much. If we well mark *Claudian*, we shall perceive him sometimes put to it, to make the best of Matters; and sometimes to write obscurely concerning that War: particularly of that *Alan* who lost his Life in *Italy*. What mean his flourishes, when he saith that *he was worthy of the Elysian Fields, and to be Celebrated in Verse; who, though it were by his Death, burnt with a desire to purge suspected Fidelity, and with his Blood, washed off that undeserved Stain?* That *Pagan* Writers (so partial as we see they are,) should bear great respect to the Cause and Person of *Stilicho*, we cannot wonder, when we are told by *Orosius*, that his Son *Eucherius*, to procure the favour of the Gentiles, threatened that he would begin his Reign with the restitution of the Temples and destruction of Churches. But, the Encomium which *Zosimus* gives him at parting, seems little to agree with what he saith in other places concerning his Actions. The great Modesty and Abstinence he speaks of here, little suites with Rapacity, wherewith he charges him as well

Felix,
que plag
carmine
Qui male
um nobis
rius arsit
to purgan
qui judi
Diluit i
tum lau
sanguine
men. De
tico. a v

Oct. 2. as *Rufinus*, after their entrance into the Office of Guardians; when all the Wealth flew into the Coffers of them two; the Cities being exhausted. We cannot also but remember what he writes of his Luxury and Debauchery, when he undertook his expedition into *Greece*. But how Just or Unjust soever the Cause of putting this Person to death was, we must needs say that, the whole Story of him taken together, he was a very great Man, and illustrated by his many and great Actions, as well as his Alliance. Yet, by descent, *Orosius* saith he was a *Vandal*, or sprung from the race of that weak, covetous, perfidious and wily Nation. His first considerable advancement was to take care of the Emperor *Theodosius* his Horses; or to be his *Comes Stabuli*, as we learn from *Claudian* in the Poem he wrote in commendation of his Wife *Serena*; and thence he was promoted to be *Magister Equitum*, or rather *Utriusq; Militie*, as we find he was, by other Testimonies.

44. So great was the Prejudice conceived against him, as the Author of the late Invasions and Disturbancies, that he being now taken out of the way, they thought the Storme to be over. For, presently after his Death, as if now there was no need of extraordinary payments, which the Invasions of *Alarich* and *Radagisus* had made necessary, *Honorius* gave orders to *Theodorus* the *Præfectus Prætorio* of *Italy*, for taking off the Burthen which had been laid upon that part of the Country called *Italia Annonaria*, of finding those Provisions called *Annonæ Cellariensæ*; of which we have formerly spoken; and he was as kind to *Senators*, as the ordinary sort; commanding also that their Tax or the *Glebalis Collatio*, should be removed. And now toward the latter end of *September* came out the usual Edict, for confiscating the Estates of Traitors and their Complices, enjoining *Theodorus*, that the Emperors Titles should be fixed throughout their Fields and all their Houses; as also that what their Agents had received of the Fruits of their Grounds, they should presently reckon for in the Treasury, under Pain of Banishment and Proscription. This Edict it seems did not operate so effectually but that there was need of another, a Month after, to reinforce what concerned the Agents, and such as had to do with the Estate of *Stilicho*, commanding them to bring in what they had kept back; but without any Penalty inflicted for Failure; so that Pardon for what was past, seems to be understood. These two Constitutions respected the Estates of *Stilicho* and his *Satellites* or Partisans, in the Surveying of which, there were Goods found mixed with them, that were claimed by other Persons. But of these Claimers it was found, or suspected, that some of them at least had given Estates both Moveable and Immoveable to him, his Son, or their *Satellites*, for the enriching (or disquieting) of *Barbarians*. And therefore by a third Edict, wherein he gives *Stilicho* the stile of *Prædo Publicus*, or publick Robber, he commands, that all such mixed Estates be confiscated, as were given for that purpose. It being always held for Law that no Action of recovery can lye where both the giver and receiver are found to be in turpitude or dishonesty; and in such cases, the Cause of the Exchequer is always held the better.

45. But let us hear what *Zosimus* hath concerning the management of Matters after the death of *Stilicho*. All Affaires at Court were ordered according to the pleasure of *Olympius*. As for places, he was promoted to that of *Magister (Officiorum)* and the rest were distributed according to his recommendation. Now were all the familiar Friends, and such as had taken the part of *Stilicho*, sought out in all places, and amongst the rest *Deuterius* the *Præpositus Cubiculi* of the Emperor, and *Peter* the *Tribune* of the *Schole* of the *Notaries*, were called to account, and subjected to Examination by Torture; but being neither able to accuse him nor themselves, *Olympius*, though he gained nothing by this Inquisition, yet caused them to be beaten to Death with Staves. Very many other also, as privy to the Designs of *Stilicho*, were drawn into Trouble and tortured, to discover his affecting the Imperial Dignity; but they all persisting in this, that they knew nothing of it, a stop was put to the Curiosity of those who were active in fishing out such matters. The Emperor deposed his Wife *Thermantia*, and caused her to be sent back to her Mother, though she was not burthened by any suspicion; and her Brother *Eucherius*, to be diligently sought for and put to Death, who was found to have fled to a Church in *Rome*, whence they dismissed him, out of reverence to the place. In that City *Heliocrates* who was over the Treasury, producing the Emperors Letters which commanded that the Estates of all those should be Sold, who during the Power of *Stilicho* had obtained any place of Magistracy, busied himself in raising Moneys and filling the Coffers belonging to his Office, and not contenting himself or satiating his evil genius herewith, though

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408.

—Geminus mox
idem culmine
daxat Agni-
na. Quidam le-
gerunt mox ge-
minis gonis,
ut ita juvat
Ducem militis
pariter Barbari
ac Romani.

L. 4. De Indul-
gentiis. Dono-
rum. Cod. Th. lib.
11. tit. 28. Dat.
Id. Septemb.
Abst. Cod. Just.
ut temporaria.
L. 20. De Bonis
Proscriptionum
Cod. T. Dat. 8.
Cal. Octobr.

L. 21. epist. tit.
Dat. 8. Cal. No-
vemb.

L. 22. epist. tit.
Dat. 15. Cal. De-
cemb. Abst. 1.
Cod. Just.

P. 811

Sect. 2. he laid such Persons in Chains, and, God absenting himself, turned all things upside down, yet was added to those Mischiefs another thing of the like Nature. The Soldiers that were Quartered about in the Cities, when word was brought of *Stilicho's* Death, flew presently upon the Wives and Children of the *Barbarians* that there lay; and as if the Signal had been given, putting them all to the Sword, then sieled on all they had. This when their Relations heard, they met together from all Quarters, and grievously provoked by the impious violation of that Faith, by the *Romans*, which had been given by calling God to Witness, they resolved to joyn with *Alarich*, and in Conjunction with him to enter into a War against *Rome*. Upon this account Thirty Thousand men, or more were gathered together, ready to go whither ever Occasion should direct.

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408.Alarich his
terms:

Rejected.

46. *Alarich* was not forward to accept of what they offered; but mindful of the Truce which had been made in the lifetime of *Stilicho*, preferred Peace before War. He sent to *Honorius* and offered the confirmation of it, for no great sum of Money; but he required that for performance of the Conditions, *Ætius* the Son of *Flavius*, and *Fasos* the Son of *Gaudentius*, might be given up, as Hostages, into his Hands; in exchange for whom, he would send some of the Noblest of his own Nation; which being done, he would depart with his Forces out of *Noricum* into *Pannonia*. The Emperor rejected his Conditions. And if of two things he had done but one, he might have well enough provided for his Affairs. For he should either have put off the War by obtaining Truce for a small Sum of Money; or if he resolved for it, he should have got his Forces together from all quarters; and there have placed them, where the Enemy was to make his passage, to give a stop to his farther progress. And he ought to have chosen *Sarus* for his General, who of himself was a terrour to the Enemy both for his Valour and Military Skill; and had with him of *Barbarians*, a sufficient number to make resistance. But neither making choice of Peace, nor embracing the Friendship of *Sarus*, nor drawing together the *Roman* Army, but relying wholly upon the fancies and wishes of *Olympius*, he became Author of great Calamities to the State. For he made such, Officers of his Army, as would rather raise contempt and confidence in the minds of his Enemies, than otherwise; giving the Command of the Horse to *Turpillio*; of the Foot to *Varanes*; and of the Wing of the *Domesticks*, to *Vigilantius*, and other places he distributed to Men of equal fitness and capacity. This caused all Men to hang down their Heads, and despair; having now, as it were before their eyes, the destruction of *Italy*. So *Zosimus*.

Strangers for-
biden *Rome*.

47. But of such strength and continuance had the authority and Interest of *Stilicho* been; such his influence into all sorts of persons, especially those of the Military Employment, that there was great need to have a watching eye over his Party; however, it suffered, as *Zosimus* writes. Therefore did the Emperour forbid, that any of them that were proscribed, should come to Court, or set a foot within the City of *Rome*, under pain of Deportation: and also such Soldiers as by procurement of *Stilicho*, or his *Satellites*, had before their time obtain'd Testimonials or Letters for Dignities, as of *Tribunes* and *Protectors*; those of them excepted, whose Dwelling or Habitation was in *Rome*; from whom he did not apprehend such danger, as from those who had no just occasion to go thither. Well might *Honorius* have some jealousy and suspicion of these persons, when at this very time, after ten years had passed, he concerned himself about the *Satellites* of *Gildo*; some of whom, it seems, had lurked all this while, and concealed both themselves and Estates. Having notice, that now some such were discovered, he wrote back to *Donatus* the *Proconsul* of *Africk*, that they should be committed to custody, and proscribed; or their Estates sieled and sold; satisfying himself with this, without inflicting the pains of death, the prescription of ten years having mollified the sentence. At the end of the Year, he proceeded to remove some Abuses, which had been introduced by *Stilicho*; of which we had had no knowledge but for an Historical Constitution, as I may term it, directed now to *Theodorus*: herein he tells him, that *Stilicho* the *Public Enemy*, had found out a new and unwonted device to set many Guards upon Shores and Havens, lest any should pass out of the *East* into this part of the Empire. Moved by the iniquity of which thing, and that Commerce might not be so rare as it had been; he commands that this pernicious custody of the said places, be removed, and that a free passage to and fro, may be opened. But because at this time more than ever, the greater and richer sort oppressed the poor and inferiour, (one of the forerunning signs of the Empires approaching ruine:) He prohibits

L. 20. de pa
Cod. Th. Dat.
Cal. Olib.L. ult. de Tel.
moniali Ex
bunis &
testoribus, &
10. Cal. Dec.L. 19. de pa
Cod. Th. Dat.
Id. Nov. Ab
Cod. Just. &
temporaria.L. 1. de lit
& itinerun
custodia, &
Th. lib. 7. tit.
Dat. 4. Id. DPassage open-
ed out of the
Eastern into
the Western
Empire.

ject. 2. the Nobler, and the more Honourable, and richer persons to use Merchandise, "that there might be a more free Commerce betwixt Plebeians and their Chapmen."

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408.

48. So hard hearted and unmerciful were the rich Men of this Age, that they were so far from giving relief to the Distressed, that it pleased them even to add affliction to affliction. For the Emperour farther informs us, that when an invasion of the *Barbarians* was feared in the Western *Illyricum*, a great number of the Inhabitants, out of fear, and to avoid destruction, forsook their own, and went into other Countries. These, some persons were so impudent as to make Slaves, and that by insinuating something concerning them to the Emperour, in way of begging. Perceiving the horridness of the practice, *Honorius* bids the *Præfekt* to take notice, and have a care, that for the time to come, none of *Illyricum*, whether living at home in their own Country, or elsewhere, be begged in such manner. "And some were yet more bold, without asking leave to seize upon the persons of their Fellow Subjects, which caused *Honorius* further to declare, That all such as were driven, or forced out of their own Countries, of whatsoever Province, Sex Condition or Age they were, should not by any Man be retained, but suffered freely to return to their own homes. Neither if any Cloaths or Meat was given them, should any thing be demanded for it, but set upon the Score of Humanity. But in case that any of them had been bought, or purchased of *Barbarians*, then thinks he it conducing to the publick utility, that the price be paid back to the purchasers. That a consideration of the loss of ones Money may not hinder a Work of such charity, he thinks it decent, that they that are redeemed, either return back what was paid, or else by the Labour, Work and Service of five years make them compensation, and then enjoy that freedom to which they were born. He wills therefore, that with this restriction they be all sent back into their own Countries, and there have all things entirely restored to them, according to the *Fus Postlimini*. If any *Agent*, *Steward*, or *Farmer* shall endeavour to render this Law ineffectual, he condemns him to the Isles, and Deportation; and the Lord of the Ground he deprives of his Land, and banishes also into the Islands. For the more effectual putting of this order in execution, he will have the *Christians* of the next places to take care of it: "By which he means the *Bishops* or *Clergy*, to whom the names of *Christian* and *Clerks* are especially appropriated, though at first they signified all the *Faithful*, or *Believers*; as in *France*, and here also with us the Consistories or Audiences of *Bishops*, have been, and are still called *Courts Christian*: He admonisheth also the *Curiales* of the Neighbouring Cities, to take notice, that in such emergencies the intent and purpose of the Law is to be obeyed. And will have all the Governours of Provinces to know that they shall forfeiten pounds of Gold themselves, and their Apparitors as much, if they neglect the execution of it."

L. 3 de Com-
mercio. Cod.
Just. lib 4. tit.
63.
L. 25 de Petiti-
onib. & C. Cod.
Th. Dat. 4. id.
Decemb. Abest a
Cod. Just. ut
temporaria.

L. ult. de Post-
liminio. Cod.
Th. lib. 5. tit. 5.
& l. ult. Cod.
Just. deod. tit.

ow Sub-
s. prohibi-
being
cs.

ch pier-
into Italy.

49. The Consuls for the Year CCCCIX, were the two Emperours, *Honorius Augustus* the eighth time, and *Theodosius* the third. Before this, *Marich* deriding the preparations made by *Honorius*, resolved on his Expedition against *Rome*. And because he would not attempt so great a matter on even hands only, but with advantages superiour to those of the Emperour, he sent for *Ataulfus*, his Wifes Brother out of the upper *Pannonia* to have him for his Colleague and Assistant in the war, who had with him no small number of *Huns* and *Goths*; yet he staid not for his coming, but began his March, and passed *Aquileia* with the other Cities beyond *Eridanus*, viz. *Concordia*, *Altinum* and *Cremona*. Having crossed the River, as on a Festival day without meeting with any adversary, he came to a Castle of *Bononia*, called *Oecuberia*, whence having ranged *Emilia*, and left *Ravenna* behind him, he proceeded to *Arminium*, a great City of *Flaminia*, and so at length into *Picenum*. Some say, that lying near *Ravenna*, he sent to *Honorius*, and desired peace, and that some place might be assigned to him and his in *Italy* to inhabit, in return, to serve him faithfully as a Soldier. *Honorius* was sensible, that in strength he was inferior, and could not well grapple with him, but was so confident in the fortifications of *Ravenna*, and hoped so much from the Forces which before the death of *Stilicho* he had sent for out of the East; that he answered with great courage, that he could not yield to any of his demands; and that he should do well to remember what became of his last expedition. *Marich* not satisfied with this Answer, moved towards *Rome*; and in his passage rifled all the Cities and Villages, insomuch, that if before the coming of the *Barbarians* into these parts, *Arfacius* and *Terentius* the Eunuchs had not presently made their escape, and

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Honorio 8,
& Theodosio
3, Coss.
Zosimus, p. 812.

SECT. 2. taken away *Eucherius*, the Son of *Stilicho*, to *Rome*, there to be put to death, which they inflicted upon him, the young Man had fallen into the hands of *Alarich*, and had escaped. But they having herein obeyed their orders, and restored *Thermantia* to her Mother, not being able to return the same way to *Honorius*, they took Ship, and sailing toward *Gall*, came at length where he was. For their good service *Terentius* was made *Præpositus Cubiculi* to the Emperour, who conferred the next place upon *Asfacius*. And *Bathanarins* being slain, who was *Magister Militum* in *Libya*, and had married the Sister of *Stilicho*; the Government of that Province was delivered to *Heraclianus*, who killed *Stilicho* with his own hand.

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Blocks up
Rome.

Serena con-
demned to
death by the
Senate.

50. *Alarich* now drawing near *Rome*, and stopping up all the passages to it, a dreadful tumult arose in the City, at so unexpected a thing. Many Slaves and Barbarians made their escape to him; and the Pagans returning to their old Fable, contended, that the *Christian* Religion, whence all those mischiefs proceeded, was to be forsaken. But the Senate had *Serena* in suspicion, as if she had brought the *Barbarians* against the City; and the Fathers, together with *Placidia*, the Emperour's Sister, resolved that she ought to be put to death, as the cause of all these great calamities. They concluded, that if she was removed out of the way, he would raise the Siege; there being none then remaining that would betray the place into his hands. This suspicion was altogether false, and without ground, *Serena* having never once had such a thought. But *Zosimus* tells you, she justly suffered punishment for offering violence to divine things, in such manner as he is pleased to relate. At such time as *Theodosius* the elder, having suppressed the tyranny of *Eugenius*, came to *Rome*, he procured a contempt of sacred worship in the minds of all Men, refusing to allow, out of the publick stock, any thing to defray the expence of Sacrifices: then were the Priests of both Sexes driven away, and the Temples stood desolate, and without their wonted Ceremonies. Then did *Serena* flout at them, and would needs see the Temple of the Mother of the Gods, where beholding a Bracelet about the Neck of *Rhea*, and worthy of that divine Worship, she took it from the Image, and put it about her own Neck. When an old Woman that was left of the Vestal Virgins, saw it, she upbraided her to her face with her impiety; but she grievously reviled her, and made her Attendants drive her away, who, at her departing wished, that such vengeance as was due to such wickedness might light on her, her Husband, and her Children. But she giving no heed to such things, carried away the Ornament, with which she was very much pleased; but often afterward a thing appeared to her both sleeping and waking, which denounced to her imminent death. Others also there were that had sight of such Apparitions. But though vengeance, the persecutor of wicked persons, did thus do her office; yet though *Serena* knew it, she had no care of her self; but at last gave that Neck to be broken by the Halter, which had worn the Necklace of the Goddess. Moreover, *Stilicho* himself, for an impiety of the like nature, did not escape the secret effects of vengeance, as the report went. For it was said, that he commanded the Plates of Gold to be taken from the Doors of the Capitol at *Rome*, and those that were commanded to do it, left this written upon the Doors: *They are kept for a miserable King*. To which, the event answered; for he miserably ended his life. Thus, *Zosimus* the Pagan, attributes their death to what he esteemed *Sacrilege*; whereas others, with more reason, believe them punished for their ambitious practices to set up their Son.

51. But however, the death of *Serena* did not procure the raising of the Siege, which *Alarich* so far enforced, that he blocked up all the Gates, and seizing on *Tiber*, stopped all Commerce, and Provisions from coming by Sea. The *Romans* resolved to endure it, expecting every day relief from *Ravenna*; but when none came, they thought fit to diminish their ordinary and dayly expence of Provisions by one Half; and after that, when still there was little hope, they lived on a third part of that which formerly they had allowed themselves. Yet did not this course prevent a Famine, which by the many ill accidents it added, grew on a Plague, and all places were filled with dead Bodies. For the *Romans* having possessed himself of all the ways, the City it self became the Sepulchre of the dead; which thing was enough to render the place desolate; for if there had been no Famine at all, the stench arising from the Carcasses would have destroyed the Inhabitants. *Leta*, who had been the Wife of *Orasian* and *Pissimena*, her Mother, relieved many, and that for a long time; having by the liberality of *Theodosius* obtained an allowance for a Royal Table, out of the Treasury. But the matter having now proceeded to all extremity, and they being ready to devour one another, after at-
tempts

St. 2. tempts made, which at another time would have seemed abominable, they resolved to send to the Enemy, and to tell him, that they were ready to make a peace on reasonable or moderate terms, yet more ready to fight; the People of *Rome* having, after it had once taken up Arms, not been accustomed to stand in fear of any. *Basilus* was chosen for the Messenger, a *Spaniard* by original, and President of a Province, with whom joyned himself one *Fohn*, who was the Overseer of those Notaries of the Prince, which, *Zosimus* tells us, they called *Tribunes*, being a Man fit enough, as known to *Alarich*. And yet they knew not certainly in *Rome* whether *Alarich* himself was at the Siege, a rumour being spread, that there was some other who had favoured the cause of *Stilicho*; but when the Messengers were come to the Camp, they saw in how great ignorance the People had been in so long time, and were ashamed of it. When they had told their Errand, *Alarich* took especial notice of this, that the People was ready to fight; and answering, that thick Grass was more easily cut than thin, fell into a great laughter, and derided them.

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52. When they came to the debate about peace, he used expressions exceeding even all Barbarous Insolence. He affirmed, he would not raise his Siege till he had all their Gold and Silver, rich Household Stuff, and such Slaves as were of the Barbarous Nations, delivered into his hands. One of the Messengers hereat asking what then he would leave remaining to them in the City; he answered, their lives. Having obtained a Truce, in order to a further Treaty, they returned to *Rome* with his answer. And *Zosimus* tells you, that the *Romans* being now convinced that it was *Alarich* that besieged them, and despairing of all things which Man could perform, they bethought themselves of that assistance of which the City had had experience, when vexed with Seditions, and now having forsaken their ancient Rites, they had been deprived of it. While they considered hereof, *Pompeianus*, the *Præfect* of the City, met by chance with some that were come from *Tuscia*, and affirmed, that they had freed a Town, called *Arveia*, from imminent danger, by their Vows and Country Rites, having procured grievous Thunder and Lightning, you must know, and driven to flight the Barbarians. Having spoken with these Men, he did whatsoever was required by the Books of the *Pontifices*; but considering of the then prevalent opinion, that he might do it safely, he communicated his whole design to the Bishop of the City, whose name was *Innocent*; who preferring the safety of the place before his own Opinion, permitted them to do what they thought fit. But they affirming, that nothing would avail the City, except the wonted Sacrifices were publicly restored, the Senate ascending into the *Capitol*, and as well there, as in every *Forum* of the City, celebrating the usual Rites, nobody durst be present at the Ceremonies of their Country, but those Men that came from *Tuscia*, being bid farewell, applied themselves to appease and mollifie the *Barbarian* all the other ways they could imagine. They sent Messengers to him a second time, and after much said, and contended on both sides, it was agreed, that the City should pay down five thousand pounds of Gold, thirty thousand of Silver, four thousand Silk Coats, three thousand Skins of Purple Dye, and as many pounds of Pepper.

53. The City had nothing now in Bank, and therefore the Senators were to be taxed according to their Estates, the care whereof was committed to *Palladius*. He was not able to raise the Sum, either for that the owners concealed part of their Goods, or because the City was grown poor, by reason of the covetous and continual exactions of the Emperours; and therefore (you hear *Zosimus*) that wicked Genius which then governed the Affairs of mankind, impelled those that were concerned in the raising of this Money, to the very height of Villany. For what was wanting in the Sum, they supplied out of the Ornaments belonging to the Images of the Gods, which amounted to no other than this, that those Images which had been dedicated with Sacred Rites and Ceremonies, and decently adorned, because they had preserved the City in perpetual felicity, should now by diminishing of these Ceremonies become altogether as inanimate and inefficacious. And because all things which could tend to the destruction of the City were to concur, they not only deprived their Images of their Ornaments, but melted down some that were made of Gold and Silver; amongst which was the Image of *Valour*; and it being thus destroyed, all that *Fortitude* or *Valour* which remained to the *Romans*, was extinguished; which persons that were skillful in divine matters, and exercised in the Rites of their Country, did predict. Money being raised in this manner, it was thought fit to send to the Emperour, to ac-

Seet. 2. acquaint him with the Agreement, and to let him know, that *Alarich* demanded not only Money, but the Sons of Noble Men for Hostages; and upon these terms would not only make a peace, but enter into a League offensive and defensive with him, and march against any one who should act in an hostile manner against the *Romans*. *Honorius* was content, that Peace should be made on these Conditions; and then the Money was paid to the *Barbarians*. And *Alarich* for three days, opened a Market to the hungry Citizens, granting them liberty to pass out at certain Gates, and permitting Provisions to be brought in from the Haven. The Citizens having thus refreshed themselves, the *Barbarians* departed from *Rome*, and encamped in the places about *Tuscia*. But all the Slaves in a manner that were at *Rome*, fled away; every day some, and joyned with them, insomuch that their number reached to forty thousand; and while the *Romans* were employed in bringing in Necessaries from the Haven, the *Barbarians* straggling up and down, fell upon them. This, *Alarich*, when he knew it, both severely punished, and prohibited for the time to come. This mitigation of mischief, as it appeared, fell out at such time as *Honorius* the Emperour entred the Consulship at *Ravenna*, enjoying now that Honour the eighth time, and *Theodosius Augustus* the third time, in the *East*.

The Siege of Rome raised by Money, as *Zosimus* tells the Story.

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54. This is *Zosimus* his Relation, full of zeal for his ancient Country Rites and Ceremonies, which transported him so far out of the way of veracity, as to cast dirt upon the memory of *Innocent* the Bishop, as we may with as much reason as charity believe, because the Ecclesiastical Writers, some of whom were prejudiced against him, lay no such matter to his charge. The Men of *Tuscia* we are to take for no other than *Etruscan* Soothsayers, who were much skilled in such like Mysteries. The Town they pretended to preserve by their Conjuring, is by *Sozomen* called *Larina* in *Tuscia*; and by *Sigonius* it is taken for *Narnia*. Why they could not shew such Feats at *Rome*, *Zosimus* gives but a slender account; for, others write, that many Senators of the *Pagan* Perswasion did really sacrifice; and that the Soothsayers were not accidentally met, but sent for on purpose by the *Præfēt*: their Gods must have been very weak, or very angry, that could not, or would not deliver their Well-wishers, without so heavy a Composition as the City paid. Another Relation there is, of a certain *Italian* Monk, who hearing what danger *Rome* was in, hasted to the Siege, and laboured to perswade *Alarich* to preserve the City. To whom he answered, that he was willing so to do; but that there was one who continually was importunate upon him, and urged him to destroy it. If this be true, it came from a stronger hand than was that of *Zosimus* his Gods.

Socrat. l. 7.
Sozom. l. 9.

Honorius sendeth the Imperial Habit to *Constantine* the Tyrant.

55. But in the mean time, *Constantine* the Tyrant, who domineered in *Gall*, sent some Eunuchs to *Honorius*, to beg his pardon, that he had received that Dignity which was conferred on him. For he professed, he did not take it upon himself, but was forced to it by the Soldiers. *Honorius* considered, that so long as *Alarich* with his *Barbarians* pressed so hard upon him, he could not think of any other Wars; and he had a respect to the safety of his Kinsmen, *Verenianus* and *Didymius*, kept Prisoners by the Tyrant, so as to consent to what was done, and to send him the Imperial Habit; though he was deceived as to his Kinsmen, who were put to death before the coming of the Messengers. The Senate and People at the same time found as great reason still to be concerned for their own safety, which was far from being sure, or established, the Emperour having neither given up the Hostages to *Alarich*, nor performed other Covenants. The Senate therefore made choice of *Cecilianus*, *Attalus* and *Maximianus*, to represent the sadness of their condition to him, by shewing what they had already undergone, and what they must still expect to suffer. But whether *Honorius*, for that he had taken off one Enemy, by consenting to the promotion of *Constantine*, was grown high and secure; or, as *Zosimus* saith, was governed by *Olympius*, who disturbed all things, and hindered whatever was just and fitting, he sent back the Messengers without any satisfactory Answer. But having removed *Theodorus* from the Præfectship of the City, he gave the place to *Cecilianus*: and *Attalus* he set over the Treasury. *Olympius* still bent his whole study and endeavour to find out such as he imagined to know any thing of the Affairs of *Stilicho*; and now called to account *Murcellianus* and *Salonius*, two Brothers, and of the Emperour's Notaries. He delivered them up into the hands of the *Præfētus Prætorio*, by whose order, their Bodies were rent and torn with Scourges; but nothing did they offer to promote *Olympius* his Design. *Honorius*, convinced now that the City was in

Zosim. l. 8.

in no good condition, thought fit to send for five Regiments of *Dalmatians* to defend it, in which were contained six thousand Men, esteemed the Flower of the *Roman Army*, both in respect of their courage, and their extraordinary strength and stature.

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56. *Valens* their Commander, thinking it below the wonted courage and resolution of the *Romans* to shun any paths or ways because they were seized, and held by the Enemy, fell into the hands of *Alarich* and his Men, who waited for his coming; and scarcely one hundred escaped, amongst whom was *Valens* himself, who with *Attalus*, sent by the Senate as a Messenger to the Emperour, came late into the City. Now greater mischiefs still following one another, when *Attalus* entered *Rome*, he discharged *Heliocrates* of that care, which by order of the Emperour, had by means of *Olympius* been imposed upon him. His Employment was to search after, and enquire out the Estates of those who had been proscribed upon the account of *Stilicho*, and bring them into the Treasury. But being a Man of a moderate temper, and thinking it impious to insult over miserable people, he enquired not strictly into the matter, but privily sent to many concerned, to conceal their Goods as much as they could; whereupon as good for nothing he was sent away to *Ravenna*, to suffer in the room of those he had delivered; and had been put to death, but that he betook himself into a Church of the Christians. As for *Maximian*, he was taken by the Enemy, and was redeemed by *Marinianus*, his Father, with thirty thousand *Aurei*. But still the Emperour deferring the Ratification of the Peace, and not making good the Covenants, the *Romans* could not freely, and without attempts made upon their Persons, go out of the City. With this the Senate was so moved, as to send their Messengers again to him to persuade him to embrace the Overtures; and amongst them was the Bishop of *Rome*, with whom were sent some *Barbarians* by *Alarich* to secure them on their way, which the Enemy had every where beset. While they were on their Journey, *Ataulfus*, who, as was said, was sent for by *Alarich*, passed the *Alpes*, which extend themselves from *Pannonia* towards *Venetia*, or the *Fulian Alpes*, so called. When he was come into *Venetia*, *Honorius* finding he had no numerous Forces, drew out all the Soldiers out of the Towns, and commanded them to oppose him, and hinder his conjunction with *Alarich*; which they did so effectually, that of the *Goths* they slew fifteen hundred, with the loss but of seventeen Men. In the mean time, the Eunuchs at Court fell foul upon *Olympius*, and accused him as Author of all the Inconveniences under which the Empire at present laboured, and prevailed so far, that he was discharged of his place; which being done, that no greater mischief might happen to him, he fled away into *Dalmatia*.

57. The Emperour now made *Attalus* Præfect of the City, and in his place set *Demetrius* over the Treasury, with design that he should diligently enquire into whatever might belong to it, that nothing might be concealed. Several Officers he turned out, and preferred others, as he pleased, amongst whom was *Genetridus*, to whom he gave the Command of all the *Dalmatick* Soldiers, and besides them, of all that lay in Garrison, through the upper *Pannonia*, *Noricum*, and *Rhetia*, as far as the *Alpes*. This *Genetridus* was a *Barbarian*, but every way virtuously inclined, and most free from covetousness, who still adhered to the Rites of his Forefathers, neither would be drawn from the worship of the Gods. But of late there had been an Edict published, which forbade any that was not a Christian to wear the Military Girdle at Court. Obligated by this Law, he, who also had a Command in *Rome*, layd by his Girdle, and quietly kept himself at home. The Emperour required, that he who was an Officer should attend at the Palace according to his Rank and Place. To this he answered, that there was a Law which forbade any one to wear the Girdle, or be capable of any Employment that did not profess the Christian Religion. *Honorius* replied, that the Law should indeed bind others, but not him who had done such services for the Commonwealth; but he persisted, that he would not receive any advantage in that which tended to the injury of all other persons concerned; neither would he attend any business, till the Emperour, compelled by shame and necessity, repealed the Law in all respects, and made it free to any one to hold his Opinion, together with the Employment he had before enjoyed. Beginning with this magnanimous Act, he kept his Men in continual Exercises, and furnishing them with Conveniences, suffered none of their Provisions to be drawn off to other uses, as had been ordinarily practised. Nay, of his own allowance he gave rewards to such of them as best deserved. And be-
having

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The Soldiers
mutiny at Ra-
venna.

having himself after this manner, he was both a terror to the neighbouring *Barbarians*, and protected those Nations that were committed to his Charge.

58. In the mean time, the Soldiers that quartered at *Ravenna* fell into a Mutiny, and possessed themselves of the Haven: which done, with a confused noise, they required, that the Emperor should come to them. He thought not fit to venture his Person: but *Fovius*, who was advanced both to the Dignity of *Præfectus Prætorio*, and of *Patrician*, taking along with him *Ellobichus*, the *Comes Domesticorum Equitum*, went to them, and pretending to be ignorant of the cause of their uneasiness, though he himself was reported to be Author of it, demanded what had provoked them to such a Seditious Act. They required that *Turpillio* and *Vigilantius*, two Officers in the Army, as also, that *Terentius*, the *Præpositus Cubiculi*, and *Arfacius*, that was next to him, should be given up into their hands; and *Honorius* durst not deny them, for fear of a Revolt: so that the Officers were condemned to Banishment, and, in order to their Exile, carried on Ship-board; where they were made away by order of *Fovius*, lest, returning again, they should discover his practices against them, and procure the Emperor to punish him for it. As for *Terentius*, he was banished into the East; and *Arfacius* was commanded to keep himself at *Milan*. Into the place of *Terentius*, was *Eusebius* promoted; the Command of *Turpillio*, was bestowed on *Valens*; and that of *Vigilantius* on *Ellobichus*: by which the Mutiny now seemed to be appeased. *Fovius*, the *Præfect*, having got all the power into his own hands, resolved to send to *Alarich*, to come as far as *Ravenna*, in order to a Treaty. *Alarich* so far complied with him, as to come to *Arminium*, at but thirty Miles distance; and thither *Fovius* speedily betook himself: and, having lodged and contracted Friendship together, they fell into discourse about the matter. *Alarich* his Demands were, that a certain sum of Gold, and a quantity of Corn and Provisions might be yearly paid him: and, that both the *Venetia*, with *Noricum* and *Dalmatia*, might be assigned to him and his Men to inhabit and possess. These Propositions were sent away, in the presence of *Alarich*, by *Fovius*; who, in other Letters, written apart, advised the Emperor to make *Alarich* a *Magister Utriusque Militie*; thereby to sweeten him, that he might remit something of the harshness of the Terms, and consent to a Peace upon more tolerable and moderate conditions.

Fovius em-
broiled the Em-
peror in new
troubles.

59. The Emperor blamed the rashness of *Fovius*; and wrote him word back, that, as for the quantity of Gold and Provisions, he might be an equal Judge in that point, having, as *Præfectus Prætorio*, opportunity to be thoroughly skilled in such matters: But, never would he grant the Dignity, or Office, of a *Magister Militum* to *Alarich*, or any of his Nation. *Fovius*, having received the Letter, did not read it privately, and to himself, but audibly in the hearing of *Alarich*; who was not moved at any other of the Contents, but fell into a Rage, when he found, that such a Command should be denied to him and his Nation: and, he commanded his *Barbarians* to make ready to march to *Rome*, to be revenged for the Affront offered to their whole people. *Fovius* being quite put out of his way by those unexpected Letters, knew not what course to take; but, to *Ravenna* he returned: where, to reingratiate, and make full amends for what he had done, he resolved to overdo; and obliged *Honorius* by Oath, that he would never make Peace with *Alarich*, but wage War perpetually with him. This done, he himself touched the head of the Emperor, and also took an Oath to the same purpose; which he exacted, moreover, from the rest that were in Place and Authority. In order to this extravagant Resolution, the Emperor procured an Aid of ten thousand *Huns*; for the sustenance of whom, he caused Corn and Cattel to be brought out of *Dalmatia*. And he sent out some, to espy and discover what way it was that *Alarich* took against *Rome*; gathering, in the mean time, together all his Forces. *Alarich*, by this time, repented of his purpose of attacking it; and procured the Bishops to go to *Honorius*, and advise him by his neglect, not to suffer that City, which, now, for more than a thousand years, had reigned over a great part of the World, to be wasted by *Barbarians*, nor such beautiful Buildings to be burnt and defaced; but rather, submit to some very moderate Conditions. These were, not to enjoy the Dignity lately mentioned, nor the Provinces to be given up to inhabit; but only, both the *Noricums*, that lay upon the utmost part of *Ister*, which were subject to continual Incurfions, and paid a very slender Tribute. For Provisions, he would submit to such proportions as the Emperor himself should think fit, and fully quit his Demand of Gold: desiring, that betwixt him and the *Romans*, a Friendship and Society in War might be contracted, against any one that should take

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take Arms, or move, against the Commonwealth. These things so mildly and modestly did *Alarich* propound, that all men admired his Temper. But, *Fovius*, and the rest that were next about the Emperor, alledged, that they could not be granted, because all in Office had taken an Oath, never to make Peace with him. And, if you will believe *Zosimus*, they gave this reason; because, if the Oath had been made to God, possibly it might have been neglected, by permitting to the Divine Benignity the Pardon of such Wickedness: but, having sworn by the head of the Emperor, it was not lawful for them to go against so heavy an Oath. So cautious, saith he, were the minds of these men, who (though without the care of God) governed Affairs at that time. And so he concludes the fifth Book of his History.

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60. *Alarich* therefore finding himself abused, with his whole Army marched for *Rome*, resolved to do his utmost in the Siege thereof. At which time came another Messenger from *Constantine*, out of *Gall*; one *Fovius*, a man of excellent Learning and Endowments, to ratify the former Agreement, and to ask Pardon for the death of *Didimus* and *Verenianus*, the Kinsmen of the Emperor; who, he pretended, had been put to death without any Order received from *Constantine*. Finding *Honorius* in a great passion at the mention of their death, he told him, he should do well, if, now entangled so much in the troubles of *Italy*, he gave some way to the time. And, if he would grant him leave to go back to him that sent him, and to make known the condition that *Italy* was in; he would shortly return with all the *Celtick*, *Spanish* and *Brittish* Forces; and bring relief both to the City of, and the Country about, *Rome*. With this Proposal, *Fovius* obtained leave to depart. *Alarich* being come to *Rome*, threatened he would take it by force, except the Citizens would joyn with him, and make War against *Honorius*. They sticking hereat, he laid Siege to the City: and, proceeding on to the Haven, after he had spent some days in the Attack, he became Master of it. Now he had all the Provisions in his power; and threatened to spend all upon his own Army, if they did not presently submit. Hereupon, the Senate assembled; and, after a full debate what was to be done, they consented to what *Alarich* had propounded; for, death stood at every man's door; neither was there any way of evading it, no supply of Provisions coming in from the Port. Therefore they thought fit, after the receiving of his Ambassadors, to invite him to the City: and, according to his Commands, they placed *Attalus*, the *Praefect* of *Rome*, in the Imperial Throne, adorned with Purple, and a Crown about his head.

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like *Attalus*
nperor.

61. This fine man thus promoted, could not but, out of his great stock, be liberal to others. He presently declared *Lampadius*, *Praefectus Pratorio*; and *Marcianus*, *Praefect* of the City. As to the Army; he gave Command of the Horse to *Alarich*, and of the Foot, to that *Valens*, who had been Captain of the *Dalmatick* Legions. *Ataulfus* (as *Sigonius*, out of some other than the Vulgar Copy, informs us) he made *Comes Domesticorum*, and designed *Tertullus* *Consul* for the following year: and having bestowed the rest of the places, was accompanied by a Royal Attendance to the Palace, though many ill Omens happened, as to his success. The day after, he entered the Senate, and there made a speech full of Arrogance; affirming, that he would bring the World into subjection to the *Romans*: and, he bragged of other matters; for which, perhaps, the Divine Power was angry with him, and not long after, as our Author hath it, turned out the man. But, however, the *Romans* were mightily pleased, having obtained such Magistrates as understood their business; and they took most pleasure in the Honour conferred upon *Tertullus*, the *Consul*. Only, the Family of the *Anicii*, who seemed to carp at all things which tended to publick good, were against it; for, possessing the greatest Estates, they could not endure the publick Felicity, as *Zosimus* calls it. *Alarich* now advised *Attalus* to send away convenient Forces to *Africk* and *Carthage*; and, by that means to turn *Heraclianus* out of that Government; that, being obliged, as he was, by his duty to *Honorius*, he might give no interruption to his proceedings. But he nothing esteemed this wholesome Counsel; but, as even, *Zosimus* acknowledgeth, trusting to his Prophets, or Sooth-sayers, (at another time) was perswaded, that that Country would fall into his hands without a stroke. He neglected therefore, to send *Drummas*; who, with those Troops of *Barbarians* which he commanded, might easily have defeated *Heraclianus*. And, despising the advice of *Alarich* the second time, gave the Command of the *African* Forces to one *Constantine*; and sent him away, slenderly provided.

Who fillily
manageth his
latters.

62. While all men expected what the issue of this would be, *Attalus* undertook

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Honorius reduced to great Straits.

an Expedition against *Honorius*, who held his Residence at *Ravenna*. And the Emperor was therewith so terrified, that he sent to him, and offered to receive him as his Partner in the Empire. But, to that *Fovius*, whom *Attalus* had made *Præfectus Prætorio*, and now sent him to *Honorius*, answered, that his Master would not suffer *Honorius* to enjoy the Title, no, nor to keep his very Body entire; some part whereof he would have him lose by Mutilation, and afterwards be banished into some Island. This prodigious Arrogance, raising astonishment in all that heard it, *Honorius* prepared to make his escape; and for that purpose, procured no small number of Ships to be brought into the Haven at *Ravenna*; when, in the mean time, six Cohorts of Soldiers arrived, who had been expected in the life time of *Seslicho*, out of the East; but came not till now, to his Assistance. With the sight of these men, who in number were four thousand, the Emperor revived, as out of swoon, and committed to them the care of *Ravenna*, where he resolved to stay, till he could hear what became of the Affairs of *Africk*. In case *Heraclianus* prevailed, matters being then secured there, he would make War upon *Attalus* and *Alarich*; but, if he should be beaten, as the last refuge, he purposed to go to *Theodosius* into the East, and to quit the Western Provinces. But, while he thought of these matters, he found means to have *Fovius* brought back to his Party, and persuaded to be treacherous, as *Zosimus* terms the deserting of a Pagan Usurper, and returning to his duty toward his Lawful Christian Prince. He told the Senate plainly, that he would go on no more Errands; and spoke words in that Assembly, which our Writer calls indecent: and that, for as much as the Attempts of those who were sent into *Africk* had miscarried, the Barbarians ought to be dispatched thither, to make War with *Heraclianus*. *Constantine*, indeed, being slain, their hopes, as to *Africk*, began to abate: but, *Attalus* being much incensed, managed his matters by other persons; and sent away Money to repair, if possible, the Decay of his Interest in that Province.

63. But, what saith *Alarich*? how doth he satisfy himself in this Pageantry, to which he had given the beginning? He was exceedingly perplexed, and began to despair of his Creature *Attalus*; perceiving him now, a man of no Judgment or Conduct. Having therefore purposed to press on the Siege of *Ravenna*, he now resolved to depart, being advised so to do by *Fovius*; who, after the Defeat of *Attalus* his Forces in *Africk*, turned again to *Honorius* his side, and ceased not to persuade *Alarich*, that *Attalus*, if he once established himself, would, if he could, procure the destruction both of him and his Relations. But, while yet *Alarich* continued in Fidelity to *Attalus*, *Valens*, the *Magister Equitum*, as a Traitor, was put to death; and *Alarich* himself marched with his Troops to all the Cities of *Æmilia*: and, such as refused to own *Attalus*, he reduced to obedience by force, except *Bononia*; which he besieged, but could not master. Moreover, he undertook an Expedition into *Liguria*, to constrain it also to acknowledge him for Emperor; but, with what success, *Zosimus*, our Informer, doth not acquaint us. This is evident, that *Honorius* now wrote to the Cities of *Brittain*, who sent to him for Aid, to provide for themselves: and he gave a Congiary to the Soldiers, out of that Money which had been sent him by *Heraclianus*; and, living at his ease, ingratiated himself with Military Men in all Quarters.

64. In the mean time, *Constantus* was again sent into *Spain*, by *Constantine*, his Father. He took along with him, as his Captain-General, one *Fustus*; at which, *Gerontius* was so enraged, as, disdaining to have another brought over his head, he inveigled the Soldiers that lay thereabouts, and procured the Barbarians that were in *Galia Celtica*, to revolt from *Constantine*. He was not in capacity to reduce them, his Forces being now in *Spain*: and therefore these *Transalpine Barbarians*, as *Zosimus* calls them, invaded all places, according to their lust and pleasure; and drove, both the Inhabitants of the Island of *Brittain*, and some of the *Celtick* Nations, to that shift, that they revolted from the Empire; and obeying no longer the Roman Laws, lived according to their own Prescripts. Therefore did the *Britains* take Arms; and, refusing no dangers for the safety of their Country, freed it from the Barbarians which hovered upon it. As also, the Tract of *Armorica*, and other Provinces of *Gall*, imitating herein the *Britains*, in like manner freed themselves; casting out the Roman Officers, and settling their Government according to their own discretion. Others write, that *Gerontius*, out of anger that *Fustus* was preferred before him; having got the Soldiers to his Party, put the Imperial Robe upon *Maximus*, a Creature of his own; and made him *Augustus* at *Tarraco*, or *Arragon*. That, on the other side, the *Franks*, excited by the sluggish humour of *Constantine*,

A. 1
40Gothofredus
Philosofus
12. c. 3. p.
Zosimus
p. 104. d.
104. 12. d.
Corporis
latione, c.
104. 12. d.
104. 12. d.
104. 12. d.
104. 12. d.
104. 12. d.
104. 12. d.Zosim. lib.
626.

9. 2. *stantine*, passed the *Rhine*, and poured themselves like a Torrent into *Gall*, which they had formerly so often attempted with such various success: and, amongst other Cities, took and plundered *Triers*, at this time the Imperial Seat in these Quarters. The *Vandals*, and other Nations, upon rumour hereof, repaired speedily to the *Rhine*, to give a stop to their presumption. But, the *Franks*, after that *Respondialis*, King of the *Allemands*, was returned from the *Rhine* with his Forces, *Gaar* being fled to the *Romans*, fell with great violence upon the *Vandals*: and having slain *Godegisil*, their King, cut in pieces almost twenty thousand of them; and had destroyed them all, if the *Alans*, having notice of their distress, had not come in, in good time to their Assistance.

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65. The *Vandals*, *Alans* and *Suevi*, discouraged by this Defeat, and not daring to grapple and contest with the *Franks*, some say, now entred into Consultation to quit *Gall*, and seek out some other Country, wherein to settle. That, having made *Gunderich*, the Son of *Godigisil*, King in his Father's stead, they went to the *Pyrenean* Mountains; and, joyning to themselves the Garrison which *Constans* had left at the Straits, passed over into *Spain*; and, proceeding into the farthest parts thereof, fell upon the *Roman* Captains when they never expected it, and brought the Country into Subjection. This indeed, is the Year in which *Cassiodorus* and *Prosper* note the *Vandals* to have entred, and siezed on *Spain*: of which *Orosius* might have given us a full Account; living at this time, and being that Country man: but, thus much he tells us, in short. That, the Nations of the *Suevi*, *Vandals*, and many others with them, being incited by *Stilicho*; beat the *Franks*, and passed the *Rhine*; invaded *Gall*, and came as far as the *Pyreneans*: Where, being stopped, they poured themselves back into the Provinces. That *Constantine*, the Tyrant, who usurped at such time as they raged in *Gall*; sent Judges into *Spain*, whom the Provinces obediently received: but, two Brothers, noble and rich, *Didymus* and *Verenianus* would not receive them; but, endeavoured to defend themselves, and their Country, for the true and rightful Emperor, against the Tyrant and *Barbarians*. For some time gathering their own Servants together out of their Farms, at their own Charge they maintained them; and, not dissembling their intentions, without disturbing any one, they marched on toward the *Pyreneans*. Against them *Constantine* sent his Son *Constans*, whom, of a Monk also, he had made *Cesar*, with certain *Barbarians*; who, having formerly been received into a League and Friendship, and taken into the Army, had the Name of *Honoriaci*. Hence arose the destruction of *Spain*. For, these Brothers being killed, who, at their own charge, endeavoured, with a private Garrison, to secure the *Alpes* of the *Pyrenean*, as he calls them; liberty of preying upon the *Palatine* Fields was first given to those *Barbarians*, as a Reward for the Victory; and, afterwards was committed to them the care of that Mountain, and securing of the Straits; the faithful and effectual custody of the Country-men being removed. Therefore the *Honoriaci*, enriched with Booty, and allured with abundance; that they might the easilier go unpunished, and have more liberty to be wicked, betrayed the Custody of the *Pyrenean*; and, opening the Straits, let all the Nations which wandered up and down *Gall*, into the Provinces of *Spain*, and joyned themselves with them. And here, after great and bloody Rovings, after great waste made, both of things and persons, for which they are now sorry, having by Lot distributed the Country, they remain and inhabit to this Day. So much *Orosius*; whom to explain, as to the distribution of the Country, we are told by others, that the *Alans* possessed themselves of the Provinces of *Lusitania* and *Carthage*, or *Cartagena*: that the *Vandals*, called *Silingi*, obtained *Betica*: and that the *Spaniards* retiring to Cities and Castles, the *Barbarians* were Lords of the rest. *Gunderich* the first King of the *Vandals* (in this Country) is said to have reigned in the parts of *Galicia* sixteen years.

Sigen. de Ovia.
Imp.

Lib. 7. c. 40.

66. For all this year we have been taken up with matters relating to War. Let us divert our selves a little, by taking a view of what else passed of Civil Concernment. While *Alarich*, at the beginning of the year, disturbed all *Italy*; but, especially, threatened *Rome*; *Honorius*, lying at *Ravenna*, when he could not protect the Cities from his Violence, yet, took care for the Establishment of the Officers, who, in a civil and limited sense, were called *Defensores Civitatum*. First, for the making of them, he ordained; that, Being initiated in the Mysteries of the Orthodox Religion, they should be appointed and settled by the Decree of the most reverend Bishops; also, of the Clergy, *Honorati*, Possessors of Lands, and the *Curiales*: which Election must be reported to the most Illustrious *Præfectus*

L. 8. de Defensio-
ribus Civita-
tum. Cod. Just.
lib. 1 tit. 55.
Dat. 15. Cal.
Febr.

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Prætorio, and by his Letters be confirmed. Being thus appointed, he gives them in Charge, and authoriseth them, if they hear of any violence offered to Possessors, to the breach of the publick Peace and Tranquility, thereof to make report to the Illustrious and Magnificent the *Præfectus Prætorio*, the Illustrious the *Magistri Equitum* and *Peditum*, the *Magistri Officiorum*, and both the *Comites* of the Treasuries. These directions he gave to *Cacilianus*, the *Præfectus Prætorio*: and, four days after, added farther to them; that, The *Defensors* should by their care and forecast, prevent the Possessors being oppressed in Weights and Measures, by the *Susceptors*, or Receivers of Tributes; of which, heavy complaint was made to him at this time. Their Office being to protect the Oppressed, he commands, that such a *Susceptor* being discovered, they send him to the Judge with signification and proof of his Crime. The Course in such Cases of Oppression, and other Injuries, was to contest them before the *Defensors*, the *Courts*, *Curators*, or *Duumviri* of Cities and Towns, the Criminals being brought, and the matters examined, and entred before them. Now, sometimes it happened, that these persons refused to deliver Copies of these Examinations and Proofs, out of favour to the Parties accused; so that the injured persons could not further prosecute them. In such cases he declares, that they may contest the injury by a Libel publicly affixed in the most eminent and frequented places of the City; which Libel shall be recorded by the *Scribes*, *Tabularii*, or *Clerks*, that so the truth may be discovered by their Examination, and those punished by the Judge that denied the Copy of the Acts.

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L. 9. de Def.
Cod. Just. n.
polata ex l.
Supplexall.
nibus, Cod.
l. 1. tit. 7. d.
l. 1. Gal. l. i.

He makes a
large Constitu-
tion in be-
half of accused
persons.

67. These Laws are but part of a large Constitution made by *Honorius* at this time concerning the manner of proceeding against Criminals; and especially in favour of them, to mitigate the tyranny of Judges, and to restrain the malice of Accusers. As his Father formerly had done, he now required, that a Criminal Action should be ended within a year. Not that the Judge was to permit the Accuser to loiter, or the matter at all to be delayed, but dispatched as soon as possible; but though there might be some cause for the trial to be put off, yet should not the prosecution extend beyond that limit. In case the Accuser fail to perfect his prosecution within that time, he inflicts infamy upon him; or if he be a mean person, then condemns him to Banishment, (the usual exchange for infamy in Men of base condition) except by consent of both Parties a Discharge be made. But the consent of both shall not impower the Judge to lengthen out the Action beyond a year, though he need not conclude it before that term, if the Parties jointly request to have that respite. This he ordained as well to put some conclusion to the harassing and vexing of accused persons, as to quicken up the Judges, some of whom (possibly the illustrious, as *Cacilianus*, to whom the Constitution is directed) were too apt to put off matters, pretending multiplicity of business. The Empire being so vast and large, persons were often accused at a great distance, and brought to answer in another Country; whence many Casualties and Accidents intervening, they never returned again, and being hurried away in haste by the Accusers or publick Officers, they had no time to settle their matters at home; and by that means, great detriment happened to their Children or Families. To prevent this, *Theodosius* the Great granted most graciously to such persons leave to continue thirty days before they were removed, to settle their Estates and Families, and comfort themselves and Relations under a moderate custody. This his Son now confirmed, enjoying that such a person be asked before the Municipal Magistrates, who were to enter it amongst their Acts, whether he would make use of the Benefit granted by that Law, or rather chuse presently to be sent to his Trial. If he claimed the benefit, he should not be refused; and if he chose to be sent away, this should speedily be done together with his Accusers, whom he would not permit to keep or detain the Prisoner as long as they pleased, or till they should think fit to begin the Journey. For as it is reasonable to give respite to the Accused, who is surprised (as we may suppose,) to recollect himself, and settle his Affairs. So is there no reason to allow any such delay to the Accuser, who in laying any crime to the charge of another person ought to be supposed to come prepared, and to have considered what he is about.

L. ult. ut
annum cri-
lis actio,
Cod. Th. l. i.
tit. 36.

L. ult. de
bend. & i
mittend. i
Cod. Th. l. i.
tit. 2.

Defensori-
tatum, Cu-
res, Magi-
stratus, & i
oblatores su-
in carcere
mittant, l.
l. 5. de
l. 7. de
rib. civit.
Just.

68. But still farther to prevent that cruelty which was too frequently exercised upon Prisoners, he forbids the Municipal Magistrates to commit any who were accused before them of Murder, Robbery, Adultery, or the like crimes, to prison by their own authority, but to send them with the informations to the Judges of the Provinces. Although this Constitution respects generally all Malefactors,

yet

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yet in an especial manner it seems to intend Robbers or Highway-men, who often abounded in those parts of *Italy* that lay toward the Mountains, and such as were convenient for feeding of Cattel. For from another part of this Constitution we are assured, that Feeders of Cattel or Herdsmen were much addicted to this Trade, being always abroad in the Fields, and having opportunity to lie in wait for Travellers. Therefore *Valentinian* formerly forbade them the use of Horses: and so *Honorius* did; who now further expressly commands, That no *Curialis*, *Plébesan* or *Possessor* of Lands, bring up their Sons with any Herdsman, though he permits that they place them with other Countrymen, which was usual for the conveniency of Air. If after publication of this Law, any presume to do it, he shall be looked upon as confessing himself of the Society of Robbers. This was to prevent the crime, and consequently the imprisonment; and prevention is far better than punishment. But it so happening, that as a subsequent irregular course of life renders ineffectual preventional Physick; so the wholesome Prescripts of Princes are made invalid, by the stubbornness and unpliant humour of their Subjects; therefore supposing what usually happens, when such persons were accused and apprehended, he prescribes further rules for the due and fair prosecution of the guilty, and for the clearing and acquitting of them who became Prisoners by no other guilt than that of the malice or temerity of their Accusers. By the old custom, an Accuser might before such time as the Action was accomplished, obtain a *Superfedeas* for the Suit, whether the Defendant was willing or not, to have it ended. But *Antoninus* and *Verns* thought fit to put some restraint upon this liberty, denying any such *Superfedeas* (*Abolito*, the word of the Law is) if the term was near, which was determined to criminal causes. They thought it unreasonable, to grant such favour to the Accuser of renouncing and nulling those Acts by which he had so long vexed the accused Party, whose consent must be proved. And this was farther carried by *Valentinian*, so as to cut off all such liberty, if the Defendant had been injuriously treated by imprisonment, or, perhaps Examination by torture.

69. Now *Honorius* thought fit to put still a greater check upon malicious Accusations, by allowing to the Accuser only that term of thirty days to sue for such a *Superfedeas*, which was granted to the other Party to continue where he was, and to dispose and order his Affairs before his conveyance from the custody of the Officials of the Judge unto prison. In this time, wherein no great molestation had happened to him, he gives leave to his Adversary to consider, and if he please to repent of what he had done; or persist in his Accusation after his entering his name, and submitting to the *Lex Talionis*; but afterwards he denies all deliberation and revocation without the consent of the other party. In like manner, if a witness produced by him, was once subjected to examination by torture for discovery of the matter pretended, he denies him all power of revocation without his consent. But in case he was only committed to custody, whatsoever time had elapsed, he grants it, provided he pay him his Charges; except such witness be also accused, as conspicious to the crime, in which case he will have him in the same condition, as the principal accused. But what is said of Witnesses, he will have only to be understood of these of ingenuous Condition, that is, neither Slaves nor *Libertini*, of whom the *Roman* Laws made no such account; but that, notwithstanding their torturing, this Abolition might be granted, and no such respect was had of them as to Charges. Such order he thought fit to take about accused persons, whether they should be committed to Prison or not. But when in Prison, his care for them increased, that they might be used with humanity. He commands that every Lord's day, (a day consecrated to Works of Piety and Charity) the Judges send for them out of Prison, view them well; and inquire of them how they are treated by their Keepers, who too often were bribed to use them with sufficient severity; and starve them, if not, looked after. In the next place he orders them to be sustained at the publick charge, if they have not wherewithal to maintain themselves, for which purpose two or three *Libelle* a day, or as much as the Judges shall think convenient, shall be allowed to the *Commentariis* to find them Victuals. He further wills, that under a sure Guard they be conveyed to the Baths, to wash off any nastiness contracted in Prison. And in the last place, he wills the Bishops to put the Judges in mind, that they execute this Law to the full. For, both by the Imperial Constitutions, and Ecclesiastical Canons they had power given them to visit Prisons, and provide for the relief of the miserable and oppressed. And indeed so great were the corruptions of

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4

L. un. de pasto-
ribus dentur fe-
liti n. instrudi,
Cod. Th. l. 9. tit.
20. Abest a Cod.
Just.
So instrudi n. 17.
instrudi n. 17.
instrudi n. 17.

I n. l. de Abolito
onib. Cod. l. 1. lib.
9. tit. 37. ult.
Cod. Just. cod.
l. 1. h. n. constata

L. l. l. de instrudi
d. 12. Re. v. m.
Cod. Th. l. 1. b. 9.
l. 1. 2. 3. 4. 5. 6.
F. l. 1. 1. 2. 3. 4. 5.
Just.

Sect. 2. the manners of this Age, that there being no trust to be given to persons of other conditions, the Emperour required them in several cases to interpose themselves, as presumed most conscientious, and as having some authority and awe amongst the People. These and some other things of religious Concernment did *Honorius* enact in one large Constitution, directed to *Cecilius* the *Prefect*; and, as we may conclude, at the desire of the Messengers sent the second time to him from the Senate, amongst whom *Innocentius*, the Bishop of *Rome* went to lay open to him the great pressures and grievances under which they groan'd.

Another to remove another grievance about Marriage.

70. Another grievance we find at this time, of which the People had sufficient reason to complain, which was represented to the Emperour by some other means than this Message, the Law for redress of it not being inscribed to *Cecilius*, but to *Theodorus*, his Predecessor; although in the Chronology of Laws it be placed after that large Constitution which to him is directed. It was too ordinary a practice for such as had a design to marry, for their convenience or according to their liking, when they could not have the consent of the Parents (the true order of proceeding according to Law) to betake themselves to the Prince by Petition, and pretending to have the consent of the Woman, to procure him to interpose his Authority, and by a clandestine or surreptitious suggestion, obtain what else they despair'd ever to accomplish. Now such kind of Marriages he prohibits by vigour of this Law, Matrimony certainly being to be contracted by the consent of both parties, and of the Parents; and, of it self, of such a nature as ought to come easily on, and of its own accord without any Rescript or interposition of the Emperour. Such Rescript obtained shall be understood to be surreptitious, and he who after ward shall obtain it, shall suffer loss of Goods and Deportation; his Sons born in that Wedlock shall be illegitimate, and all hope of pardon is utterly cut off. But in case a Suitor hath had the consent of the Woman and her Parents, the Rescript of the Prince may be obtain'd for consummation of the Marriage; for she that hath been already betrothed, may justly be demanded, as also the fourfold of those *Arra* or Presents which had been made to her, upon a breach, as the Law directed. Moreover, by other Laws, certain sorts of Marriages otherwise forbidden, might be allowed by the Rescript of the Prince; as that of a Woman with her Tutor or Guardian, if the Emperour approved of his manners and integrity, as to the management of her Estate. Moreover, by his Authority Matrimony might be contracted with a person of unequal Degree and Dignity. And so might that betwixt Cousin-Germans, or those of the fourth Degree, as *Honorius* here terms it, (in a transversal line) which his Father of triumphal Memory, as he words it, did not forbid any to procure by way of supplication; though he forbade it otherwise.

L. unico Si pta ex Rili pro pntur. Cod. Th. l. 3. d. 10. L. 1. Cod. Just. cod. 10. hinc interp. off.

Marriage of Cousin Germans, how approved and disapproved.

71. That *Theodosius* did forbid the Marriage of Cousin-Germans is very certain from many testimonies, although the Law it self be not now extant in any of our Books. And he seems to have forbidden it for this reason, that he that hath to do with his Cousin-German, hath to do, as it were, a Brother with his Sister, they being in the next degree, and as little different as can be from really such. It's thought also that the punishment he inflicted upon Offenders against that Law, was no less than death, and particularly by Fire, as also the loss of Estate, as was wont in case of incest. His rigour his Son *Archadius* thought fit to mitigate the year after his Father's death, inflicting upon the Offenders only confiscation of Estate in certain cases, as where there were none to succeed them by right of inheritance, the children of this and other incestuous conjunctions (so he makes it) being made incapable of receiving any thing from the Parent. And upon farther thoughts, at length after eight or nine years, he judged this Marriage good and legitimate enough, and, as such, by another Law did declare it; of which opinion *Fustinian* was also afterward, and made it good by inserting this Law into his Code. However, in the West, *Honorius* still had observed his Father's Constitution, though his Brother was so uncertain in his Determinations; and, as he did not repeal the Law, so he now thought fit to allow of that mitigation that the Author himself made, by permitting a Dispensation to be obtained by a Rescript. Indeed, the Law and Practice, both, as to this matter of Cousin-Germans, have been various in several Ages. There was no Law against this Marriage, till that of *Theodosius*; but St. *Augustine* informs us, that seldom was the liberty made use of, being generally abhorred. Some did it, but it was disapproved by the Generality; which, even, in those days, by practice, seems to consent to the opinion of the Canon Law; which approves not of the Marriage of Cousin-Germans, because they are in the

L. 3. de int. Nuptiis Cod. Th. lib. 3. tit. 1.

L. 19. de Nuptiis, Cod. Th. lib. 5. tit. 4.

De civitat. lib. 15.

Sect. 2. second Degree. How lawful, or unlawful the thing may be in it self, the common practice of it, at least, is not expedient: the world being wide, and affording more conveniences than can be found in so near a Relation. And it tends to weaken, if not untie the Bond of humane Society, for preservation whereof, that *Father*, as well as for other reasons, will have Marriages of the nearest Relations to have been prohibited in ancient times. Were this encouraged, and ordinarily practised, Mankind would not only be distinguished into several Nations, as necessarily it must, but every Nation, nay, every Town into certain Clans and Parties, whence would proceed narrowing of interests, a cantoning of the publick, and an alienation of affections, and such effects as follow enmity and contention, rising from estrangedness in conversation.

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72. But while *Italy* was so much endangered by *Alarich*, one thing there was discovered in *Africk*, which, if permitted, would have brought that Province also into farther danger: It had been an ancient custom, that the Lands that lay upon the Borders or Limits, were assigned to the *Limitaneous* Soldiers, or such as served for defence of the Borders; and with this condition, that if their Sons were Soldiers, they should then enjoy them; but if they were not, they should not return into private hands. But now *Honorius* discovered, that so far some of those in *Africk* were in private hands, that they who enjoyed them, did not perform the service for the end of which they were granted over. They had, he saith, been granted by the humane provision of the Ancients for the care and defence of the Limit and Ditch, or that he calls *Fossatum*, to the Soldiers that had the name of *Gentiles*, or such as being Strangers of other Nations, served the *Roman* Army; being much the same with the *Latii*, lately spoken of. But he found they were held by others, whom now he obliges to the same duty about the *Fossatum*, and defence of the Limit, as Antiquity had obliged the former Possessors. Otherwise these Lands shall revert to the *Gentiles*, if they may be found; if not, they shall be conferred upon the *Veterane* Soldiers with the same Burthen, that Provision may be sufficiently made for the Defence of the Borders of the Empire. These Borders, as we have already said, were either naturally fenced by Seas, Rivers, Mountains or Woods; or else by Ramparts made of Wood, Stone, or Earth, which they called *Limits*, or, by *Ditches*, or *Trenches*, which they termed *Fossata*, so as also Castles sometime are called, because fortified by such *Fossae* or Trenches. Now whereas these Lands were given with a condition of Service to be performed; could not be transferred upon private persons, but according to the same condition, and might not descend to Sons, except they submitted to the same service of fighting, and defending the Borders, they much resemble those granted in *Fee*, as we say at this day. And some have been of opinion, that the Laws of the *Fœda* hence took their original, of which more largely we speak in the History of the *Lombards*. As for this Law, it is directed to *Gaudensius*, as *Vicar* of *Africk*, if *Comes* rather be not to be read, the place of whom he exercised in that Country eight years before; and things of Military Concernment, as this is, belonged to his Inspection. The particular reason that urged the Government to the greater care of the Limit, and the making of it, we may take for no other than the danger that *Africk* was now in from the attempts of *Attilus*, of which ere while we heard sufficiently.

*Terrarum Spacia
que Gentilibus
propter, &c.
L. i. de terris li-
mitaneis, Cod.
Th. lib. 7. tit. 19.*

73. The Affairs of *Honorius* were now but in a mean condition in *Gall*, where *Constantine* and the Barbarous Nations had carried all before them. Yet we find that he had some good footing still in that Country; for there *Claudius Paschimus* was this Year his *Præfectus Prætoris*, a person of great Note, and very well known to the Learned and Religious Men of this Age, who, though he bore twice that Office, had little to do; and had leisure enough to employ his time and charity in making of High Ways, and fencing them with Walls and Gates, as he is commemorated in an old Inscription; yet there is extant one Rescript directed to him concerning the *Principales* of *Cities* and *Municipia*, determining how long they shall hold their places, what persons shall be elected, and concerning the Privileges of the second of them in order. As for the time, he requires fifteen years wherein to attend the service of the Courts, and the Emperor; a great part of their charge consisting in their adjusting and levying of Tributes. And all those that had within six years receded from the Employment, he will have forced back. He thinks this a sufficient Incouragement, that having once served their time, they were to be rewarded with such Honours; as with the Dignity of *Excomites*, freedom from Employments, and from Torture. For the persons

*L. 171 de Dic-
tionibus Cod.
Th. Absz a Cod.
748.*

h:

Sect. 2. fit to remove at this time : and that was practised by the *Vicars* and *Proconsuls* ; who, ruling Diocesses, and so having several Provinces in their power, were wont, for the Celebration of Games and Festivals, to cause to be conveyed the *Curule-Horses*, and Chariot-drivers, from one to another. This, now, is forbidden to be practised, in another Constitution, directed to *Anthemius* ; both because the “ Countries were put to charge, and it hindred the mirth of the Cities, or else they, “ whence they were taken, must provide themselves elsewhere “ But, a greater mischief sometimes happened in *Egypt*, which, beginning there, failed not to extend it self as far as *Constantinople* ; and it was now the time of the Year to take care for the prevention of it. The Reader, I presume, is not ignorant that that Country is rendred so fruitful as it is, by the overflowing of the River *Nile*, and the derivation of the Waters thereof into its several Quarters. About the rising of the Dog-Star, when the Sun begins to enter *Leo*, it begins to swell, towards the middle of *July* ; and continues rising in *August* and *September*, till about the Sun’s Transite into *Libra*. The *Egyptians* reckoned the beginning of their Summer from the beginning of its Increase, and of Autumn from its Decrease : they sowed their Ground in *November*, and reaped in the Month of *May*. If the River rose not up to above twelve Cubits, a Dearth always followed, except in one year, which was accounted prodigious. If it exceeded sixteen, Scarcity also happened ; the Ground being too much soaked, and the Water standing so long in it, as to hinder Sowing. Now, to promote a due Rise and Increase of Waters, the Inhabitants were not wanting by their Arts. In some parts indeed, the River was kept in, and fenced, by natural Ramparts; and its also said, by Swallows, for almost the length of a Furlong: which Birds, some say with Straw and Sticks, and others by Stones called *Callores*, were wont to make Nests against it ; and effect that which neither Nature, nor the Art of Man procured ; with such pains and industry, that many of them yearly perished in the Service.

Care taken about the overflowing of the Nile.

79. How certain the Intelligence of *Pliny*, or others, is, as to this matter, the Natives did not fail to stop up the River on all sides with Artificial Banks and Ramparts, till it had increased to its just proportion ; and not till then to cut them, or let it out into their particular Fields. And there were certain Officers which watched and observed them, that none might cut Passages, or open Sluces before their time, till the full height was discovered in a Well, which had on its sides the several marks of Increase and Decrease, once in the Temple of *Serapis*, at *Memphis* ; afterward, by *Constantine's* Order, in a Church : where again it was appointed, after that *Fulian* had altered the place as before. Now, it was an high Offence to cut down any Sycamore Trees, which were wont to be made use of for these *Aggeres*, or Ramparts ; but especially, to cut the Banks, or open any private Sluces before the time. Against which *Theodosius* now shews himself so severe, that no less a Punishment than burning alive he will have inflicted upon the Offendor, in the place where the Offence is committed ; there where he violated the reverence of Antiquity, and, in a manner, the publick Security, as he words it. “ For indeed, the publick Security was endangered, when by this or other means it happened, that *Constantinople* could not be supplied with a sufficient quantity of Corn. The Accessories to the Fact, he condemns to Deportation to *Oasis*, without all possibility, by petitioning, to recover their places of Citizens, their Dignities or Estates. There were two or three places in *Egypt* which had the name of *Oasis*, being encompassed about by sandy and dry Deserts ; and into them it was the custom of Criminals to be banished, as also to *Gypsus*, an Island of that Country. *Theodosius* will have these Accessories to be without hope of Redemption ; which being, in a manner, as bad as death. *Tribonian* omits to mention this to *Oasis* ; but only, Deportation in general. For, the place was, in a manner, pestilential, by reason of the unwholesome Winds ; and so pestered with Gnats, and the greater sort of Flies, that thence the banished persons often got their death, as *Cuiacius* hath observed. Therefore, by another Law, *Fustinian* ordained, that Persons convicted of Crimes should be banished for one year at farthest, into *Gypsus* or *Oasis* ; and that only by the Magistrate of *Alexandria* and *Thebais*.

Several other
 Ed. of Grace.

So, *Theodosius*, or rather *Anthemius*, shewed himself so much for Merit and Industry at this time, in the same Constitution; as to determine a Question concerning Precedence betwixt those who, by vertue of the Emperor's Letters or Codicils, were promoted to such a Dignity or Degree of Service, *per saltum*; and them that had arrived at it by their own Labour, and Continuance in the Employment: so as the latter shall precede the other, though made equal in time by the Codicils, and “
that

A. D.
409.
L. 3. d. Spē.
cules, Cod. Th.
lib. 15. tit. 5.
L. 5. Cod. J.
cod. tit. 12.
lib. Aug.

Vide Warton.
Administratio-
le & Govern-
in L. Lond. N.
Aggrevibus in
corruptis, Cod.
Cod. Th. lib. 9.
tit. 32.
Vide L. 27. d.
Just. cod. tit.
Dat. 1. c. 2.
Elob.

Logographi
Commatare.

Vide Cuiuslib.
lib. 8. observ.
27. & lib. 26
Obs. 31.

At multas con-
traria Olm-
dorus in ex-
ceptis Photis.

Lult. de Fax
Cod. Just.

Lult. Quis
gradu, & c.
Th. lib. 7. tit.
conjugenda-
cum L. Lond. N.
li Aggrevib.

that, according to the distance of three years. " They were very kind to the *Dum-viri*, or Magistrates of *Antioch*; who, being exhausted with the Charge of setting out Games and Pastimes, according to the Custom and Dignity of that great and noble City, they supplied with a Summ of six hundred *Solidi*, granted out of the Customs. This was devised by *Anthemius*, and confirmed by an Edict directed to him for that purpose. " To the *Palatine* Officers they granted back, by another Branch of this Constitution, the Exaction of the Tributes belonging to the *Largitiones*; which had been taken from them, and the *Agentes in Rebus*, by a Law of *Theodosius* the Great. " Which his Grandson now repeals, as it concerns only the *Palatines*; though the former Law was approved by *Tribonian*, preferred before this, and put into *Justinian's* Code. But, the hands of the Emperor and his *Præfect* being now in for making Acts of Grace and Indulgence to the people, they extended part of this favour to the *Provincials* of the East, and of *Egypt*, that they might not be too much burthened by the mony they paid in lieu of the *Annona* or Provisions to Military Families. For the Convenience of the Soldiers, Meat had been changed into Mony: and, whereas there had been no certainty of time, but the custom varied in several places, the *Provincials*, by being too early called upon, might be brought to too great Inconvenience. It was thought fit therefore, to appoint, that The Collection or Payment of one Indiction or Year should not be paid in the same Year or Indiction, but when *November* following was compleated. By this means they had eighteen Months time, wherein to sell their Wine or their Goods, and pay their Mony.

81. There were a sort of Men in the East, which, having their Names from keeping and preserving the Peace, were found to be the greatest disturbers of it. They were the *Irenarche*, who seem no other than as the Stationary Soldiers in the West; or rather, those that commanded and oversaw them. They were, as we have already said, instituted by *Augustus*, for keeping the Peace, by watching in their several Stations, or the Territories of the Cities; for Apprehension of Thieves or Highway-men, and sending them, with their Charges and Examinations, to the Judges. But, as the Edict affirms, being such as would not suffer the Concord or Peace of the Territories to stand, were therefore to be rooted out: and power thereby is given to *Anthemius*, the *Præfect*, to commit the Peace of the Provinces into the hands of other persons of the most wealthy of all the *Provincials*, to whom the Title of *Irenarche* continued: However, as to these Soldiers, it was blasted by this Law: Which was afterward so much altered by *Justinian*, as to say, that the *Irenarche* caused or procured the Peace of the Provinces; and to commit the Nomination, from the *Præfectus Prætorio*, to the *Ducuriones*, according to the Judgment of the *Presidents*, or ordinary Judges. " Its high time to close this Year with a Reprehension, or Check, given by the Emperor, to the Judges or Magistrates, in an Edict directed to *Monaxius*, for forcing the trouble, some Office of *Guardians* upon the Husband-men belonging to the Prince his Patrimony, or such as were excused by Privilege, as Soldiers were. "

82. For the year CCCCX was only *Varanes* Legally nominated *Consul* in the East, they in the West having something else to do than to think of Honours and Titles. *Rome* was still held by *Attalus*, through the power of *Alarich* and his *Goths*, and was more miserably distressed by Famine than ever; because *Heracianus* having heard how matters went in *Italy*, and understood the Estate and Condition of *Honorius*, stopped up all the Ports of *Africk*, and would not suffer any Corn, or Oyl, or other Necessaries to pass over. The people lived on Chestnuts instead of Wheat, the Dearth being so much the more, for that by reason of the War, the Land had lye untilled the former year, and the Merchants kept up the Grain they had; hoping to make what advantage of it they pleased. The City was reduced to such Straits, that the people thinking now of nothing but devouring Humane Bodies, cried out at the *Circensian* Games, that a Rate should be put upon Man's Flesh; and there was a Report, that some Mothers laid violent hands upon the Fruit of their own Bowels. *Attalus*, herewith moved, went to *Rome*, and called together the Fathers; amongst whom it was moved, that the *Barbarian* Soldiers might be sent, together with the *Romans*, over into *Africk*, under the Command of *Drumas*, a Man of approved Fidelity. The Generality of Voices concluded that they should be sent, but *Attalus*, and some few with him, opposed it; fearing that, by that means, the *Goths* might find an Entrance into *Africk*. Now, *Tertullus*, whom they had designed *Consul* for this year, so much presumed upon his Ethnick Interest, as to use these words in the Senate.

Sect. 2.

Alarich deposed his Mock-Emperor Attalus.

Zosimus his History breaks off.

Honorius reinforced his Army.

83. I shall speak to you, Conscript Fathers, both as Consul, and as Pontifex; the place of one whereof I already hold, and the other I have in expectation. For which he was derided, as sufficiently arrogant. But Alarich, being weary of his Mock-Emperor Attalus, resolved to agree with Honorius, and to deprive him of his pretended Dignity; Fovius having, by his continual Criminations, driven him to it. He drew him out of Ariminum, where he then had his abode; and, in the presence of his Followers, took from him the Purple and Diadem; which he sent to the Emperor. Being thus reduced to a private Life, he kept him, and his Son Ampelius, with him, till he could procure them Pardon from Honorius. Placidia, the Emperor's Sister, was now also with him in the way of an Hostage; but he treated her according to her Birth and Quality. Constantine, in Gall, about this time, having given to his Son Constans, in stead of Caesar, the Title of Augustus, abrogated the power of Apollinaris, and made another Prefectus Prætorio in his Room. In the mean time, Alarich going to Ravenna, to make a firm and lasting Peace with Honorius, another Impediment happened, which tended to produce that State of Affairs which followed shortly after. Sarus, of whom we formerly spoke, neither joyning himself with one side, nor the other, kept himself Neutral, and his Abode in Picenum. Thither Ataulphus, the Brother of Alarich, betwixt whom and him there was a mortal Feud, came, and sat down with all his Forces. Sarus perceiving he was coming, and finding he was no way able to grapple with him, as having but three hundred men; resolved to fly to Honorius, and enter into a strict League, Offensive and Defensive, against Alarich. And here breaks off the History of Zosimus; concerning whose Veracity, so much hath been said, that nothing need be repeated. But, had the rest of his Work remained, it would have been very serviceable in so great a Defect of Writers, as we now find to handle the matters of those confused times.

84. From other Authentick Records we find, that in the beginning of February, Honorius reinforced his Army by new Levies. For this purpose he gave order to Macedonius, his Comes Rei Privata, to require of the Officials of Judges, and of the Honorati of Africk, Money for the setting forth of Soldiers, as the custom had been, and now was practised, as to the Honorati; not only in the Provinces of that Country, but also, in Sardinia, Sicily and Corsica. But, he excuseth such of them as had at present some Service or Employment imposed on them; as also, such as were, by the violence of the Barbarians, driven out of Italy, or the Soil of the City, as he terms the Suburbicarian Regions. For every Tiro, or new Soldier, he requires thirty Solidi, the Rate having often varied; being set, sometimes at twenty, otherwhiles at thirty six, or half a pound of Gold. But, as to the matter of Attalus, or his Deposing, Sozomen adds to the Narration of Zosimus; that, when he laid down the Ensigns of Majesty, his Captains also laid down their Girdles; but Honorius forgave them, and permitted every man to retain that Honour and Degree which he had formerly enjoyed. There is indeed extant an Act of Indulgence, which bears Date but five days after that about raising Soldiers, inscribed to Gaiso, as Comes and Magister Officiorum; but not so full as what Sozomen writes. For it permits such only to enjoy their places they had before the Usurpation, as came timely off from the Usurper, and returned to Obedience before his Affairs grew desperate; distinguishing betwixt true Repentance and Necessity, or Constraint; with which whosoever were moved, he commands, that their Names be expunged out of the Matricula, or Register; as also theirs who had betaken themselves from one sort of Employment to another.

85. They that timely repent are to be pardoned, and kindly received; but such as have ever continued faithful, to be gratified and rewarded. This moved Honorius to consider the Devotion of Africk, as he terms it, how loyal it had been, though attempted by Attalus: and therefore, toward the latter end of June, he thought fit to remit such Tributes as were due to the Receipt, either of the Prefectus Prætorio, or to that of the Largitiones, or Res Privata, till the fifth Indiction, or the Year CCCCVIII. This Edict being placed after another, which in time it preceded through the heedlessness of the Compilers of Theodosius his Code, is directed to Macrobinus, the Proconsul of Africk; whom Gothofred thinks the same with him, who was, as several Constitutions shew, ten years before this, Vicar of Spain; and twelve years after, Præpositus S. Cubiculi, and the very Author of the Saturnalia, yet extant. Thus much favour the Emperor thought fit to shew his Subjects of Africk in June: but such was still their behaviour, as to deserve so well at his hands, as farther to enlarge it in November following;

A. 1
410L. 2c. de
bus, Cod. Tr.
6. Id. l. 1.
a Cod. 10.

Lib. 9. A.

L. 11. de
gentis
num, Cod. 10
Dat. præ
Fob. An
tempo d.
Cod. Jul.Consul
Africa
new, 12
Indigatio
Dubitatio
To. Dat. 12
Jul. F. 12
Conj.

ing; at the latter end of which Month, he forgave all the Debts that were owing, to that present time, in a Constitution directed to the *Honorati* and *Possessors* throughout *Africa*; and subscribed thus: *After the eighth Consulship of Honorius, and the third of Theodosius.* For, there being no Consul in the West this year, *Varanes*, a Stranger, was scarcely thought of, though mentioned in the former Law. These Acts of Indemnity and Grace passed, as we said, after the deposing of *Attalus*. But we are told by *Orosius*, that, *In him being made Emperor, then unmade; made again, and then unmade; and all this, in a manner, sooner done than said; Alarich laughed, as it were, at a Mimick, and gazed at a Play of Empire.* From this it appears, that *Alarich* restored him again, after his taking him out of *Ariminum*, and divesting him of the Purple; and, that afterward, taking again distaste, he scorned and derided him; and plucked off his Fool's Coat.

86. As therefore, *Honorius*, after his first Deposing, passed that Act of Grace, lately mentioned in behalf of such as had come timely in. Six Months after, or at the beginning of *August*, The Commonwealth being, as he tells *Palladius*, the *Praefectus Praetorio*, freed from the Injury of Tyranny, he commanded those that were guilty of all Crimes, to be released; giving thereby, a full and free Pardon to all Crimes relating to the Usurpation. But, however the Commonwealth was freed, this Freedom continued but a very little time: For, though *Alarich* was inclined to make Peace with *Honorius*; yet, by means of *Sarus*, matters were again disturbed: Who, as *Sozomen* writes, with his three hundred Men, fell upon the *Goths* when they expected a Peace, and that all things should be in Repose and Quiet. And what he purposed, took effect; for, with this Act, to which he thought *Honorius* privy and consenting, *Alarich* was so incensed, that, suppressing yet his Indignation, he returned to his Army near *Rome*; and the second time besieged the City. Here *Fohn Baptista Egnatius*, a *Venetian*, tells us, he could not but exceedingly admire; that so great was either the injury of times, or lazyness of Writers, both Ancient and Modern; that, whereas all with one consent report, that *Rome*, the Queen of the World, was taken by *Alarich*, the King of the *Goths*, in the one thousand, one hundred, and sixty fourth year after her founding; yet, they either enquired not into the manner of it, or, if they did, wrapped it up in Oblivion, as a matter ignoble, and not worth the knowing. He falls into a great Exclamation, that a City, the Queen of the Universe, which may be believed to have been so luckily founded that it should always be Lady and Mistress of the Earth, and which had so often triumphed over the Barbarous Nations, and the World; should be taken through the craft of the *Goths*, and yet, the series and order of the thing should be unknown. He tells us, he will in no wise endure this; but, being studious to illustrate all Antiquity, will not neglect a passage so memorable. Now, it was taken, saith he, by the craft of the *Barbarians*, after this manner, which *Procopius*, of all that I have read, doth alone relate; and I cannot but admire, that the whole matter is dissembled by his Translator, or else not known, because he light upon some imperfect Greek Copy. But thus he writes.

87. *Alarich* had now, for two years, besieged *Rome*, neither could or durst *Honorius*, who lay idle at *Ravenna*, afford it any succour; for, being solicitous for nothing less than the safety of the City; *Stilicho* being once dead, he made no General to carry on the War against the *Goths*. This suggested to them thoughts and hopes of besieging the City, the *Roman* Soldier being either gone from his Colours, or demeaning himself very fluggishly: yet this Barbarous Enemy not being able to conquer it by force, had recourse to Wiles and Treachery. He pretends to retreat into his own Country; and chooses out three hundred young men, excellently qualified, both in Body and Mind, to bestow on the principal *Romans*; instructed before hand how to behave themselves with all diligence and obsequiousness to their Masters; and on a certain day, about Noon, when they were asleep, or minded little, to hasten to the Gate called *Porta Asinaria*; and there killing the Guard on a sudden Onset, to open the Gate to him, who would be at hand, ready to enter. The *Goths* deferred their Journey, under pretence of want of several things; and in the mean time, these young men, excellently improving their advantages, opened the Gate at the appointed day to their friends: who, breaking into the City, treated it with more Ignominy than Damage, though they ravaged it throughout. Some there are that think the Gate was opened by *Proba*, an Illustrious and most wealthy Lady, out of compassion to the ordinary sort of people, which died like Sheep, by the violence of Famine and Diseases. Two things there are, not unworthy to be known: The one is, that *Alarich* gave order, that such as fled to Churches, especially those

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L. 5. c. 1. d. tit.
Dat. 7. Cal. Dec.
Post. conf. Honor.
et 8. c. 2. Theod.
3. Abs. a. Conf.
Just. ut tempo-
raria.
In hoc Alaricus
Imp. fidei, inge-
dit. 7. Julia et
Argetta, citius
his non minus a-
ctis bene quam
dictis, c. 1. lib
7. c. 42.
L. ult. de inas. p.
crim. num. Cod.
To. Dat. 7. Id.
Aug. 410. 1.
Cod. Just.

Roman. Princip.
lib. 1.

ch the se-
time be-
h Rome.

Sect. 2.

of *Peter* and *Paul* should suffer no violence ; which was faithfully observed. The “ other, that when *Honorius* had word brought him to *Ravenna*, that *Rome* was lost, “ he thought that thereby was meant a Cock, whose name was *Rome* ; and he excee- “ dingly admired that he should be lost, who had, a little before, made him so very “ good sport. Of so stupid a disposition was this Prince, having nothing in him of his “ Father’s or Grandfather’s virtue: which also is objected against his Brother *Arcadius*. “ For, being uxorious, amongst other ill things he did, out of compliance with his Wife “ *Eudoxia*, he banished *Chrysostom*, a Prelate of extraordinary Sanctity and Learning. “

88. Thus the Illustrator of all Antiquity (as he saith, who should not say it) whose Lucubrations are so illustrious, that a man may use them as Spectacles, and yet see very little, or never the better for them. How true this Relation is in the beginning, where it says, that *Alarich* besieged *Rome* two years, we have seen already : as also, that *Honorius* made no General after the death of *Stilicho* ; he rather made too many. What we have already written, concerning the swarming of *Goths* in *Rome*, and what multitudes of Slaves there were of these Barbarous Nations, may resolve us what to judge of that fine story of the three hundred young men given to the *Romans*, and the Romantick Tale, that three hundred men, in so vast a City, in such vast Confluence of people, though at Noon time, should bear all before them, and open the Gates to an Enemy ; which, lying at the Walls, could not but be suspected. *St. Jerom* hints, that it was taken in the Night time ; and it appears, that it was rather surprized, and not after any long Siege ; so that there was no occasion for *Proba* her Commiseration: she might spare her pity of the people, which could not be pinched for want of bread in so small a time. It seems *Procopius* and *Egnatius* mistook this latter for the former Siege, wherein *Rome*, indeed, was severely straitned.

Which he takes.

When.

And upon what occasion.

89. Whatever the Circumstances of taking it were, as to the time, it must have been after the making of the Edict, or Act of Grace, we last mentioned. For, it is generally agreed, that it was not taken till *Attalus* his Usurpation was removed ; which was done about the beginning of *August*, as the words of the Edict sufficiently evince. *Baronius* therefore, with good reason, embraceth the report of the Author of the *Historia Miscella* ; which will have *Rome* taken, or *Alarich* to have entered it on the three and twentieth of *August*, rather than the Opinion of some more modern Writers, who cast it back to the first of *April*. Besides, the Council of *Carthage*, which was held this year, before the taking of *Rome*, was celebrated but in the Month of *June*. Therefore, the offence taken by *Alarich*, upon occasion of the violence offered to the *Goths* by *Sarus*, or some other pretence, must have been after the later deposing of *Attalus*, and in the Month of *August*. But, why should he vent his Spleen upon *Rome* ? Why revenge himself upon that City, where he had lately been so familiar, which had been the Seat and Habitation of his late Mock-Emperor ? With the choice of whom, and other Magistrates, *Zosimus* tells us the Citizens were so well pleased ? Because he fell out now with *Attalus*, would he quarrel with *Rome*, that had received him ? Or, quarrelling with *Honorius*, would he fall out with the City which had owned his Rival in the Empire ? Shall we not rather think, that the honest Christian Party, which was greatest, and Loyal to the true Emperor, began to get Ground in *Rome*, and obliged him to depose *Attalus* ; which done, they were encouraged to proceed to assert the Emperor’s Interest, and thereupon Contentions happened, which recalled *Alarich*, to whom the Party of *Attalus* betrayed the City ? That it was taken by Treachery, *Sozomen* writes ; and *Prosper*, that *Attalus* being outed of his Empire, gave it up to the *Goths*. Or, in the last place, shall we not rather give credit to what the Poet *Claudian* says so much of the desire wherewith he was inflamed to take *Rome* ; that this was the great and only thing he aimed at, in comparisson ? And, that he was glad to catch at any pretence, to accomplish so ambitious a design, as to be Master of the Mistress of the World ?

Vide in A
ad h. An.

90. However, the suddainness of the Enterprize may excuse the wonder and surprize of *Honorius*, who could not imagine the City of *Rome* to be in danger of taking. If therefore, the story of the Cock be true, there was no such reason to make such a stir as the *Pagans* did with it, and any thing else, whereby they could revile or expose him to Hatred and Contempt. For, they attributed all Calamities to Christian Religion, and his Constancy therein, and had great hopes and expectations from *Attalus* ; though he and they were deceived by the Answers of their Gods, as *Zosimus* confesseth ; and their Sacrifices and other Ceremonies could not do them any good, nor stave off the publick Calamities. For, however *Attalus* had been made Emperor by *Alarich*, yet, when he took the City, the *Pagans* were so far from escaping, that they seem rather most to have suffered. *Orosius*, in short, says, that *Alarich* besieged trem-

Lib. 7. c. 39
bling

St. 2. bling *Rome*, disturbed and brake into it; yet, having before given Command, that if any Persons fled into the Churches, especially, of *St. Peter* and *Paul*, they should not in the least molest them. In a word, that they might plunder what they would, but abstain from blood. After some particular Instances of the Reverence shown by him and his *Goths* to Religion, he adds, that the *Barbarians*, on their own accord, quitted the City on the third day after their Entrance, having defaced some Houses with Fire; but not with so much damage as had happened to it in the seven hundredth Year after its founding. For, the wantonness of *Nero* exceeded the Anger of the Conqueror, that Fire which he kindled for a Shew and Pastime, having far exceeded this: not to speak of that which happened when the *Galls* took the City, over the Ashes of which they insulted almost an whole Year. That none may doubt but that the City was permitted to be taken for the Correction of its proud Wantonness and Blasphemy: at the same time, he saith, the most eminent places in it that could not be burnt by the Enemy, were demolished by Thunder. But for the main he affirms, that in his time, when the memory of the thing was fresh; yet, if one considered the greatness of the *Roman* People, and heard the noise it made, he would think that, by the Irruption, nothing was done, only some small Ruins of the Fire were still remaining. He concludes the matter with acquainting us, that in this Irruption, *Placidia*, the Daughter of *Theodosius*, was taken Prisoner by *Ataulphus*, the Kinsman of *Alarich*, who made her his Wife; *Rome*, as it were, by Divine Providence, delivering her up as an Hostage, or special Pledge, whereby the *Barbarians* were joyned in so great an Alliance, to the great advantage of the Commonwealth.

91. From several hands it appears how careful the *Goths* were to fulfil the Command of their King, for abstaining from Blood, especially of Christians. Some affirm that, even in the Streets, such as mentioned God and the Saints were spared, and many thousands saved by this means; insomuch, that many turned Christians: and Pagans, as *St. Augustine* reproacheth them, escaped by taking Sanctuary in the places of Martyrs, and Churches of the Apostles. Yet was there not the same fence of Religion in all the *Goths*, nor the same respect shown towards the Command of *Alarich*, in sparing the Christians. All escaped not upon this Account, though it fared worse, generally, with those that were not known to be such; the *Goths* raging vehemently against the Pagans. This they stomached much afterward, and thereby endeavoured to raise still greater Envy against Christianity: which put the Bishops upon answering their Calumnies, and to recount the great Damages the Christians also suffered. This doth *St. Augustine* excellently perform in his Book, *De Civitate Dei*, which he began to write the Year following; wherein he shews also, that the people of *Rome* had formerly suffered far greater Inconveniences from its own Citizens, and that the City had deserved all this for the Impiety of the Gentiles; whereas, on the contrary, by means of the Christian Worship, it had been kept from utter Destruction.

92. However, it was plundered, set on fire in certain places, and, of so great a multitude, many thousands were killed or made Prisoners; amongst whom was *Placidia*, the Sister of *Honorius*; which Lady, it seems, *Alarich* had left at *Rome*: for we have seen lately from *Zosimus*, that before this taking of *Rome*, he kept her as an Hostage, though he treated her in a most honourable manner. But, whereas three years seemed hardly sufficient to the emptying of all the Wealth there in so many Ages hoarded up, the *Goths*, as *Orosius* writes, were content with three days; though *Cedrenus* and *Marcellinus* will have them to have departed, not till the sixth day after their Entrance: which soever of the two was true, this seemed, in effect, rather a shaking of the Rod over the City, than any sound beating; insomuch, that the people, as some relate, were presently sensible of their a little intermitted pleasures; crying out, that if the *Circensian* Games were but restored to them, they were well enough. But great was the Alteration, extraordinary was the Change; that the Mistress of the World, she that had extended her Arms so far and wide, and so despised the Barbarous Nations; should now be taken Captive, and become a Prey to a pitiful inconsiderable Rabble, driven out of their own Countries by greater *Barbarians* than themselves. This Captivity of *Rome* fell out in the MCLXIII Year after its founding; in the eighteenth of *Honorius*, and the eighth Indiction.

S E C T. III.

The Third Step to the Ruin of the Empire in the West;

From the taking of Rome by the Goths, to the death of Honorius, and the Government of a Woman (Placidia) and her Son Valentinian) a Child.

Containing the space of thirteen Years.

1. **A**N extraordinary providence it was that attended *Rome*, and the *Roman Empire* in this calamity. That *Alarich*, who having now in his power the Head, might easily with his victorious and triumphant Army have bidden fair for the Conquest of the whole Body; being, as it were, struck with madness, and neglecting a greater opportunity than *Hannibal* had after the Battel of *Canna* (like to whom he knew how to get, but not to improve a victory) should neither keep the City he had got, nor take care to have it kept for him; nor move against *Honorius*, whom altogether unprepared, he might easily have destroyed. Driven out rather by an Almighty Hand, than going of his own Account; with straggling Troops rather than a well ordered Army he invaded *Campania*, and the parts lying toward *Sicily*, which he harrassed; and severely handled Church-men, to wrest from them all the Gold he could possibly compass.

2. *Honorius* having received intelligence of his motions, kept himself at *Ravenna* the remaining part of the year, expecting how far his fury would transport him. At ten days before the taking of *Rome*, the Emperour seems again to have undertaken the care of supplying the City, after it was returned to obedience, and had so deeply suffered in the want of Necessaries. For whereas ordinarily the *Navicularii* were not bound to pass the Seas, or sail in Winter; yet now upon so pinching and extraordinary an occasion, he commanded, that Winter it self should not excuse them, when the Wind served, and the Weather was good. By an Edict inscribed to *Faustinus* the *Praefectus Pratorio*, he imposeth a severe penalty upon the Judges, and also the *Decuriones* and Bodies Corporate; even loss of Estate, if they suffer any laden Ships to remain in their Havens upon pretence of Winter, if the Season be convenient for Navigation; and on the *Navicularii* themselves he inflicts Deportation, if they be convicted to have used any fraud to hinder their Voyage. The Principals of the *Agentes in rebus* he now gratified highly, by confirming on them the Dignity of *Proconsuls*, and equalling them with such, who formerly indeed had been preferred before *Rationales*, but came after *Presidents*, though afterwards made equal with *Consulares*. And considering the time and the present exigency of Affairs, he was highly kind and indulgent to those that served in the *Servitia*. For though *Rome* had been taken and plundered, and the Enemy was yet in the Bowels of the Country; yet when there seemed greater need for supply than ever, did he give Command to *Miletius* the *Praefectus Pratorio*, that when there was an Indiction of Horses, or other things, these persons should be spared; so as neither while serving, nor having served their time, they should be liable to that Burthen. And he threatens the Judges and their Apparitors with the forfeiture of ten pounds of Gold, if they do not refrain from molesting them in this kind; all other persons not privileged being to be called on, as need shall require.

A. I
410

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Just. cod.
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3. Though the House of *Honorius* was so much on fire this Year, as to threaten the reducing it to very Ashes, yet was he desirous, that it should not so spread, as to catch hold on the Habitation of his Neighbour. His Nephew *Theodosius* had no great reason to be uneasy at *Constantinople*, except it was out of Commiseration towards his Uncle, and apprehension, that if he was ruined, he should but have the favour which *Polypheme* promised *Ulysses*, to be the last that should be devoured. To prevent it as well as he could, he held intelligence with his Uncle; and it was agreed betwixt them for their mutual security and assistance, that the Coasts of the Eastern Empire should be well secured, where they lay toward the Western Border. In pursuance of this, an Edict was directed to *Anthemius*, who carefully watched for the safety of his Prince, and that toward the latter end of *April*, commanding, that all Roads, Havens, Shores, and all remote and private places in the Provinces, together with the Islands, should by the disposition of his "Magnificence, as it stiles him, be prudently and carefully kept and secured; so as no manner of person, either by force and violence, either openly or privately, should convey himself within the Territories of the Empire, but be stopped, or apprehended, except he brought a Pass or Letters from the Lord *Honorius*, the Emperor's Uncle; and that evidently appeared. Moreover, if any such person pretended to bring Letters to any of private condition, these Letters and all Papers about him should be carefully sent to *Theodosius*; For this, saith he, the present occasion of Tyrannick Fury, and Barbarick Ferity doth persuade. And so, after having sent and received an answer, it is agreed betwixt me and my Lord and Uncle *Honorius*. By tyrannick fury he means the Usurpation of the Tyrant *Attilus*. By Barbarick Ferity, the rudeness and cruelty of the *Goths*, and other Barbarous Nations, which now swarmed in *Italy*, *Spain* and other Provinces of the Western Empire.

4. But in so extraordinarily dangerous times, *Theodosius*, or *Anthemius* rather, did not only think fit to secure the Borders, lying Westward, from Spies and Discoverers, but the other also of the East; though at this time the League, made by *Arcadius* with the Kingdom of *Persia*, was in force. For there is another Law, which, though without Date of Year, or Day, yet inscribed also to *Anthemius*, and concerning this same subject, is rationally thought to have made up with the former, one and the same Constitution. This prohibits Merchants, as well Subjects of the Empire, as of the *Persian* King, to hold any Markets or Fairs in any other places than those that had been agreed on when the Law was made; lest secrets should be discovered. No Subject of the Empire shall dare to go beyond *Asiaticis*, *Callinicus*, and *Artaxata* to traffick with the *Persians*. Both Buyer and Seller must know, that such Wares as shall be bought or sold beyond these places, shall be confiscated, and the Party himself banished, besides the loss of the price, or things exchanged. Moreover the Judges and their Apparitors of every Limit, through which any *Roman* or *Persian* passeth to any prohibited place, for every such unlawful Bargain shall incur a Fine of thirty pounds of Gold. But such are excepted as shall accompany Ambassadors that come to the Emperor from the *Persian* Court; for they are allowed to traffick out of the forementioned places, provided, that they abuse not this privilege granted for the sake of the Embassy, by staying longer than the Ambassadors themselves. By this we see the manner of preventing Spies and Discoverers in this Age, by hindring Commerce; which being a specious pretence, under the Vizard of Merchants many of them have in all times concealed themselves. Towards the latter end of the Year it was thought fit to mitigate the rigour of the Law, whereby married persons were tied up so, as if they had no Children they could not receive above a tenth part of the Estates of each other. So severe was that Law called *Lex Papa Decimaria*, which *Constantine* the Great did not repeal; though he took away several penalties belonging to *Calibate*, and Burdens that lay upon such as had no Children. But now those about *Theodosius* thought it convenient to repeal this also, and in this respect to grant the *Fus Liberos* to all married persons, that they might receive by the Gifts or Testaments of each other as much as those that had Children. Though for encouragement of propagation, other privileges still remained peculiar to such.

5. For the Year CCCCXI *Theodosius Augustus* was Consul the fourth time alone; and sometimes it is marked thus, After the Consulship of *Varanes*. *Alarich* having wasted *Italy*, and gratified his humour to the full upon the Continent, resolved to pass over now into *Sicily*, and there also to act according to his covetous

A. D.

410.

L. 2. de lib. p. 65.
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411.

L. 1. de lib. p. 65.
L. 1. de lib. p. 65.
L. 1. de lib. p. 65.

Sect. 3.

and cruel inclinations. For this purpose he drew down his Forces to *Rhegium*, and put them on Board, but in his attempt to pass over, was seized by a Tempest; which so disordered the Fleet, that he was constrained to return into *Calabria*, where he fell upon *Consuntia*, a strong City that refused to obey him, and having taken it, permitted it to be plundered. Here he consulted what to do, and whether to turn his Arms, when he was suddenly summoned to give an account of what he had done already; for, falling sick, his Disease quickly dispatched him to another world in the height and career of his success. His *Goths* were exceedingly perplexed at the death of their King, under whose conduct they had prospered so long a time. As soon as grief would give them leave, when they considered what great mischiefs he had done to the *Romans*, imagining, that if they buried him in any place that was easie of access, his Body might be digged up, and ill treated by those whom he had injured; by the assistance of Slaves they digged a Ditch, and drained the Water out of the Channel of the River *Basintius*. There in the middle of the Channel did they bury him with abundance of Wealth; which done, they let go the Water back into the Channel, and the stream returned to its ancient course; after which they killed the Slaves that had been employed in the Work, that none might give notice of the place. Having done this last office to their deceased King, they held a Consultation whom to elect into his Room, and made choice of *Ataulf*, his Wives Brother, who thus promoted, procured the consent of *Galla Placidia*, the Sister of *Honorius*, a Woman of excellent parts and person, to marry him at the place called *Forum Cornelii*; which Marriage, as *Sozomen* observes, happened very well for the Empire, the mollifying his fierce and cruel humour, by the cunning art she had of working upon him, and procuring him of his own accord to desire peace of the *Romans*.

His Burial.

Ataulf's death.

6. This is much more probable and true than what the Writer of the *Historia Miscella* speaks of *Ataulfus* his returning to *Rome*, with the Army presently after the death of *Alarich*; his plundering of it, and thence taking away *Placidia* to be his Wife. For as to *Placidia*, others signify, that she was in the hands of the *Goths* before *Alarich* his death, as we have seen already; and that violence was again offered to *Rome* presently after his Decease, is no where else to be found. But *Orosius*, who living at this time had reason to be well acquainted with the Affairs of it, tells us, that as the report went, and as his end sufficiently discovered, *Ataulfus* was a studious endeavourer after peace, and designed to serve *Honorius* faithfully, and to employ the Forces of the *Goths* for the interest of the *Roman* Commonwealth. He adds, that he himself had heard a certain person, (who having served *Theodosius* in an eminent Command in the Army, afterward had the testimony of *S. Jerome* for a religious, prudent and grave Man) at *Bethlehem* in *Palæstine*, say that he was very familiar with *Ataulphus* at *Narbon*, the place of his Nativity; that then he understood from him, as others did, that being high in his Design, in his power and wit, as he himself was wont to relate, he had a vehement thirst and desire to have the *Roman* Name obliterated, and all the extent of the Territories of the *Romans* to be called the Empire of the *Goths*, or to speak vulgarly, that it should be called *Gothia*, instead of *Romania*; and the name of *Ataulfus* should be substituted in the room of that of *Cæsar Augustus*. But having by manyfold experience proved, that the *Goths*, by reason of their unbridled Barbarity could not be brought to obey Laws, and that the Commonwealth could not subsist without them, he then resolved to provide for his own Security and Glory, by restoring fully the *Roman* interest, by the force and assistance of the *Goths*; that he might be esteemed by posterity, as the Author of the *Restitution* of *Rome*, seeing he could not be of an *Alteration*. For this purpose he endeavoured to abstain from War, and laboured for peace all the ways he could, especially being tempered and inclined by his Wife *Placidia* to all good Offices, she being a Woman of a very sharp Wit, and unblameable as to Religion. Being studiously intent after the procurement of peace, he was at length killed at *Barcinone*, a City of *Spain*, through the treachery as was reported, of his own Men.

7. This happened some time after, as we shall see in its proper place. At present leaving *Ataulfus* newly married to *Placidia*; and as some write, purposing for *Gall*; we shall haste thither before him, being called by the motions that now happened betwixt *Constantine* and *Gerontius*. *Sozomen* acquaints us, that *Gerontius* being the Chief of all his Commanders, now turned his Enemy, and adorned with the Imperial Habit one *Maximus*, a familiar acquaintance, whom he thought fit to be made an Usurper. Him he permitted to stay at *Tarracon*, and he himself led

A. D.

411.

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ammon. 1. 1.
Contention.
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vot. 1. 1. 1.
vant. 1. 1.
dis de 1. 1.
Gallia.

Atta-ult.
the e pat.
duction.

Lib. 7. c. 4.

led his Army again *Constantine*, hoping to surprize his Son, who then lay at *Vienna*, and speedily to dispatch him. *Constantine* when he heard what had happened about *Maximus*, made *Edobecchus* his Captain General (whom some make King of the *Franks*) and he sent him beyond the *Rhine* to draw the *Franks* and the *Allemanns* into a confederacy. To *Constans*, his Son, he committed the custody of *Vienna*, and the other Citics. But *Gerontius* marching thither, fell upon *Vienna*, took it, and therein *Constans*, whom he put to death. Thence he removed to *Arles*, and in that place besieged *Constantine*, whom he hoped in a short space to send after his Son. It happened not long before, that *Honorius* observing the restless humour of this man, though he had owned him as Emperour, and sent him the Purple, yet seriously considered how he might rid *Gall* and himself of such a Colleague. He cast his eyes upon *Constantius*, one to whom Writers give the Title of *Comes*, a Roman of great Nobility, of great Valour and Prudence; and him he made *Magister utriusque Militie*, and with a powerful Body of Men sent him into *Gall*. He chanced to come into the Country at such time as *Gerontius* lay encamped against *Constantine*, and there he also sat down before *Arles*, esteeming both of them as Enemies to his Master, though they were at enmity betwixt themselves. And he so ordered his matters, that most of *Gerontius* his Soldiers came over to him, and forsook the Traitor, who thereupon, to avoid destruction, fled presently into *Spain*.

8. *Constantius* continued the Siege of *Arles*, which he had begun; and not long after news was brought of the approach of *Edobecchus* with a great number of *Franks* and *Allemanns*. The report hereof so struck the Officers of *Honorius*, that they thought of returning back into *Italy*; but *Constantius* resolved with the Foot to abide his coming, and sent *Ulphilas*, his chief Commander of Horse, to lie in wait for him, and use all advantages which time or place might afford. He permitted *Edobecchus* to pass by with all his Troops, that he might fall upon him in the Rear at such time as his Front should engage *Constantius*; and by this means it came to pass, that he was utterly defeated, all his Men being slain or taken, except some few that escaped. He himself fled, and got safe to the House of one *Ecdicius*, whom he had much obliged, and therefore took for his faithful Friend; but he fairly cut off his Head, and brought it to the Officers of *Honorius*, expecting great favour and rewards for so meritorious an Act. *Constantius* commanded them to receive the Head; and in the Name of the Commonwealth, that thanks should be given to *Ecdicius* for executing what should have been done by *Ulphilas*; but whereas he purposed to remain in the Army, he commanded him to be gone, not thinking it lucky, either to himself or it, to harbour so ingrateful a Man. But *Constantine*, who had endured a Siege of four Months, when he heard of the overthrow of *Edobecchus*, divested himself of the Purple, and fled to a Church, where, hoping thereby to secure himself, he obtain'd to be made Priest. This known, the Inhabitants of *Arles* having received an Oath from *Constantius* for their Indemnity, opened their Gates. Being entred, he caused *Constantine* with his other Son *Fulian* to be secured, and sent to *Honorius* into *Italy*; and he hearing of his coming, sent those to meet him, who, at the River *Mincius*, cut off his Head, and presented it on the seventeenth of *September*. He had used the Title of Emperour five years from his first Usurpation. For an Usurper he was at first. But being owned by *Honorius* afterward, who sent him the Purple, and had power to make or receive a Colleague; according to that Law and Custom which in the Empire was now observed, of Emperour we can scarcely deny him the Title.

9. *Gerontius*, as we said, fled into *Spain*, but there was not received according to his hopes. For, as unfortunate Men are ever despised by the Vulgar, the Soldiers there now esteeming him not at all, because of his flight, resolved to put an end to his life and reputation both together; and for that purpose beset his House. He so stoutly demeaned himself, that with the assistance of an *Alan*, his familiar Friend, and a few Slaves, by Darts and other means he killed three hundred of them. But when those Weapons failed them, the Slaves fled and made their escape, which *Gerontius* might also have done; but the love of his Wife *Nonnichia* detained him. The Soldiers now meeting with no farther resistance, set fire to the House, and *Gerontius* finding there was no hope, first cut off the Head of his Friend the *Alan*, who desired it, then of his Wife, who with tears and lamentations met the Sword, and rather than to fall into the hands of the Enemies, was glad to die with her Husband, and earnestly begged this last favour of him. Then at last he wounded himself three times; but these Blows not dispatching him, he took his Dagger,

Sect. 3.

Jovinus usurps
in Gall.The Huns in-
vade the Pro-
vinces.

which hung at his side, and therewith struck himself into the heart. *Maximus*, his Mock-Emperour, that he had set up, not long after perished, as *Sozomen* hath it: but *Orosius* writes, that deposed and forced to a private life, being forsaken by the *Gallican* Soldiers (who first passed over into *Africk*, and again returned into *Italy*) at such time as he concluded his History, he lived as a banished Man in *Spain* amongst the *Barbarians*. This time being fruitful in Tyrants, the boldness of one encouraging another to such Attempts as they could not yet but observe to be tragical in the end; one *Jovinus*, a Man of great Nobility, and Power amongst the *Arverni*, took upon him also the Ensigns of Majesty, and hoped by the assistance of the *Franks*, *Burgundians*, and *Allmans* to defend his usurped power.

10. Thus miserably were the Provinces of the West harrassed this Year; *Italy* and *Gall*, as we have seen; and still the farther *Spain* by the *Vandals*, *Alans*, and *Sueves*. And the East had also its share in the publick calamity, though small in comparison of what the West did suffer, which had the ill hap to be the Receptracle of such inundations as did but *in transitu* afflict the Eastern Provinces. *S. Jerom* writes, that presently after the captivity of *Rome*, the whole East trembled with the terrible Messages that were brought, how Swarms of *Huns*, which proceeded from the utmost extent of *Maotis*, between frozen *Tanais* and the savage Nations of the *Massagetes*, with their swift Horses flew up and down, and filled all places with terour and Slaughters. Now, he saith, the *Roman* Armies were detained by Civil Wars in *Italy*; so that the *Barbarians* had scope enough to go whither they pleased, and by their speed to prevent the very fame of their coming. They had no respect, either to Religion or Dignity; no Age they spared, neither had any pity for the crying Infant, but compelled these to die, who yet had not begun to live, and knowing not their danger, when in the Enemies Hands, smiled at these Weapons which were immediately to destroy them. He adds, that the constant rumour was, that they purposed for *Jerusalem*. Some are of opinion, that out of *Asia* they poured themselves into *Thrace*, and so into *Pannonia*. For it appears, that after the *Goths* had quitted *Illyricum*, they were succeeded by the *Huns*, who especially seized on *Pannonia*; *Honorius* now not being in a condition to make any considerable opposition; so that he yielded to an agreement with them, and as he received, so he gave up Hostages, amongst whom was *Ætius*, who had formerly been delivered up to *Alarich* on the same account.

11. This Invasion of the *Huns* in the Eastern Parts foreseen, or feared, put those about *Theodosius* upon an endeavour to secure as well as they could the Northern Limits. Besides the Fortifications of Castles and Walls, upon such Rivers as parted the Empire from the Territories of *Barbarians*, there were kept certain Vessels of War called *Lusoria* from their playing or plying about, whereof some were employed in continual Watches and Discoveries, lest the *Barbarians* should attempt any thing suddenly and unseen; and others kept their stations, as occasion required, to oppose their motions, if they offered to pass the Water. A Fleet of these Frigats called *Lusoria* (as those that were at Sea *Liburna*) there was ever on the *Rhine* for defence of the Empire against *Germany*, another, as the Reader may remember, was settled on the *Mosa*, or *Meuse*; and in the East there was a third, which plyed upon the *Danube* for defence of the *Mælian* and *Scythian* Limits, which lay in *Mæsia* and *Scythia*, two Provinces of the Diocesis of *Thrace*. To reinforce these Limits, a Rescript we find directed about this time to *Constans*, by the Title of *Magister Militum* throughout *Thrace*, dated on the twenty seventh of *January*, thus: *Our Lord Theodosius Augustus the fifth time being Consul, and he who (in the West) shall be declared.* Now, as for the year, *Theodosius* was Consul but the fourth time in this whereof we write, and in that following was the fifth time adorned with the Consular Ornaments. But *Theodosius* being this year Consul alone, whereas in the following, his Uncle was joyned with him; and in the Date of the Law no other being expressed, but only this added: *And he who shall be declared*, this seems to direct us this present Year, wherein no Consul being declared in the West, they in the East at the latter end of *January* were still in suspense and expectation who should be the Man. The fifth time also might easily be mistaken by the Scribe for the fourth. However, the matter is not great, it being certain, that in one or other of these Years the Law was enacted; and therefore the Chronology of *Theodosius* his Code, to make sure of it, sets it at both the one and the other. It ordains, that in the *Scythian* Limit, (because it was larger, and extended to a greater distance upon the Borders) shall be employed one hundred

A.
41Epitaph.
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Sign.

Judicia
ditta.
Agraria

Et. 3. dred twenty six of these *Lusoria*, so as every year seventeen new ones shall be built, and furnished with all conveniences. Of these, five shall be for Discovery, and twelve to keep the usual stations. In that of *Mafia* shall be employed one hundred *Lusoria*, so as every year fourteen new ones shall be built, whereof four of the first, and ten of the latter sort; that so in the space of seven years the whole number (almost) may be repaired. This must be done at the instance of the *Duces* of the Limits, the *Magister Militum* of the whole Diocels, taking care, that they do their Duties, and that materials be provided for the building of the Vessels. In the last place, order is taken, that these *Lusoria* be duly repaired, when grown old and leaky, and appointed to the transportation of Corn and other Necessaries for the Armies.

A. D.

411.

L. m. d. L. r.
vris Danavio.
Cod. Th. l. 7. tit.
17. Dat. 5. Cal.
Febr. Const.
D. N. Theodosio
A. 5. Conf. Et
qui fuerit aux.
titus, Absit a
Cod. Just.

12. In the Year CCCCXII, *Honorius Augustus* the eighth time, and *Theodosius Augustus* the fifth, (as we lately hinted) received the Consular Ornaments. *Honorius* this Year made his Abode at *Ravenna*, and *Theodosius* at *Constantinople*. *Ataulfus* now with all his *Goths* quitted *Italy*, and went into *Gall*, where he chose to inhabit the Province of *Narbon*, with the consent and allowance of *Constantius*, who setting himself against *Fovinus* the late Usurper, overthrew him in Battel, and drove him at length out of *Gall*. After his overthrow his Brother *Sebastian* set up for himself, as if the Sovereignty had been entailed upon their Family; but *Constantius* made his Reign to be very short, putting an end to that and his life together in a little time. Having done this, and punished such as had encouraged the Rebellion amongst the *Arverni*, he went into *Spain*, and there easily mastered the Usurper *Maximus*, whom, finding a mean Fellow, and nothing answering to his name, he despised him, and let him go; so as *Orosius* writes, he lived afterwards among the *Barbarians*. These *Barbarians* were the *Vandals* and *Suevi*, who by this time, in a division of Countries they had over-run, had *Gallacia* fallen to them for their share; the *Alans*, who possessed *Lusitania*, or the *Turcilingi*, to whom some assign the parts of *Batrica*. These now held the farther *Spain*, being modelled in certain forms of Government under their several Kings. But the hither parts of that Country, *Constantius*, by subduing the Usurpers, now reduced into obedience to *Honorius*, the rightful Prince; and this performed, he returned into *Gall*.

A. D.

412.

Honorio A.
8, & Theodo-
sio A. 5,
Coff.

13. The *Goths* being removed out of *Italy*, *Honorius* was much at ease, but the Treasury was quite exhausted; and the Affairs of the Empire were in such a posture as required he should be upon his Guard, and provided against such accidents as he had too great reason to expect. More Men were to be raised, and the Money paid usually in the room of finding *Tirones*, was to be exacted. But the Burthens of State were so great, that to evade them, all persons that had any pretence flew to their privileges, which put *Honorius* to the pains of declaring what persons they were that he would hold excused. These were the Illustrious, the *Præfecti Pratorio*, the *Magistri Militum*, the *Comites Domesticorum* (it being, he saith, improper, that they should be bound to find Soldiers, whose Valour makes his Enemies Captives, and prepares them for his Triumphs) the *Præpositus*, or *Primicerius* of his Bed-Chamber, the *Castrensis*, the *Comes Sacra Vestis*, and the other *Chamberlains*, the *Magister Officiorum*, the *Questor*, and the two illustrious *Comites*, or High Treasurers. Eight of these persons were Illustrious, after whom he subjoyns others, of the degree of *Spectabilis*. The *Primicerius* of the *Notaries*, the *Consistorian Comites*, the *Magistri* of the *Scrinia*, the *Tribunes* and *Notaries*, the principal *Physicians*, (or *Comites Archiatorum*) the *Comites Stabuli*, the *Cura Palatii*, the *Scholares*, the *Proximi* of the *Scrinia*, and the *Scrinia* themselves; the *Comites Dispositionum*, the *Decuriones*, the *Magister Admissionum*; such other persons in Dignity, or *Comites*, as were associate to the labours of the Prince, as he words it; and in the last place, the *Tribunes* or *Præpositi* of the Army, who had received testimony of ancient service. All these persons he excuseth, as well after their Employments, as when in Office, both from the payment due for finding of Soldiers, for Horses, and that of Gold. He adds, that he will have them only obnoxious to those payments, whom Antiquity called *Honorary*; or who, having obtain'd Civil Dignities, had bestowed no pains in such Employments. As also such as having the Military Titles of *Præpositus*, or *Tribune*, knew not what belonged to the Camp, and never looked the Enemy in the face.

L. m. Quia præ-
bitant Tironum
et equorum
excellentur, Cod.
Th. l. 11. tit. 12.
Dat. 15. Cal.
Mart. Absit a
Cod. Just.

14. This gives us an account of the Ranks and Orders of Court, and Military Officers; but such as in some things differs from that we premised to our History

Sect. 3. from the *Notitia* of the Empire. At this time the *Comites Domesticorum* had an higher place than afterward, when the *Notitia* was composed, as *Gothofred* well observes; because at this time they often executed the Offices of *Magistri Militum*, and the Law it self gives testimony to their Valour. They that are called *Comites Stabuli* were Masters of the Horse, and sometimes have the Title of *Tribunes*, as *Valens* had under *Valentinian*, his Brother. But farther, by this same Constitution directed to *Meletius* the *Præfect*, *Honorius* declares, that he excuseth illustrious Persons, not only from those payments, for Soldiers, Horses, and that of Gold, but from all, both sordid and extraordinary services: "Whereas by the Laws of *Valentinian* the younger, and *Honorius*, they had only been freed from sordid Employments. He was now put in mind of several things which ought to be reformed in *Africk*, which had of late been sorely harrassed, and yet had very well deserved of him. Complaint was boldly made, that the Possessors of Lands were burdened, by being compelled to pay, not only for their own Grounds, but such as were barren or forsaken. We have formerly spoken of the *Epibole*, which was devised for equitable reasons; for oftentimes Lands were so alienated, that the best and most fertile were bought up, and others utterly neglected, though with diligence and care they might also have been rendred sufficiently fruitful; a practice so common in some Provinces, that it was necessary for the restraint thereof to make a Compensation or Adjection, so as the barren should be added to the fertile, and Tribute paid for both together. But this was only when both sorts of Grounds had belonged to one Man, or the occupation of them proceeded from the same Right and Title; not when they had no Relation one to another. But now in *Africk*, the Officers of the Revenue extended this *Epibole* too far, making such Possessors pay for deserted Lands, as had no obligation at all to do it. To redress the Grievance, *Honorius* gave in charge to *Seleucus* the *Præfect* of *Italy*, that *Inspectors* should be sent into that *Dioecesis* to view and consider the grounds and reasons of the Complaint; and thereof make a report, that all matters relating to the Tributes might be put into a due posture.

He regulates
the *Epibole* in
Africk.

A. D.
412.

*Leg. de
ord. iust.
Cod. Theod.
Cod. Just.
Caus. max.*

*Leg. de
na. et
Cod. Theod.
Cod. Just.
omni agros
lerto, Theod.
Cal. Pr.*

*Leg. de
tit. Cod. Theod.
prid. Cal. de
Abst. a Cal.
Just.
Leg. de
tit. Cod. Theod.
Abst. a Cal.
Just.*

14. But particularly as to the payment of Gold and Silver, such care had formerly been taken by *Theodosius* the Great, that neither the Money might be diverted to other use, nor the Possessors forced twice to pay the same Duty; therefore did he ordain, that payment should be made before the *Defensors* of the Cities, and Acquittances delivered in their presence. But this, it seems, proved not effectual to prevent oppression, which appearing to *Honorius*, he now enjoined *Eucharius*, the *Proconsul* of *Africk*, that all payments of Gold and Silver should be made in the City of *Carthage*, the place of his Residence; who being the great Officer and Magistrate of the Country, would strike more awe into the Collectors, so as not to dare to refuse the giving of full and fitting Discharges. In the same City of *Carthage*, and that in the *Secretarium* of the *Proconsul*; he presiding on the Tribunal, and the People being let in, and standing about him, he will have the Exactors of Tributes chosen at the appointed times. If any of them shall be found faulty in their places, others shall be chosen to succeed them; and if they be found guilty of oppression shall be capitally punished, and their Estates answerable for fourfold of the value of what they superextracted. If any of the Judges shall neglect to see those orders put in practice, he shall incur a Fine of thirty pounds of Gold.

15. The *Curiales* made as heavy complaints, that they were not only employed in business relating to their Charge, but hurried about, and forced to be Stewards and Bailiffs of the Lands belonging to the *Res privata* of the Prince; to collect the Cloaths that the Provincials found for Soldiers; and to undergo other labours. These two things he particularly prohibits, and in general, that the *Curiales* be vexed with mean Employments and extraordinary Burthens; laying them upon the Shoulders of the Officials, belonging to the Governours of Provinces, and in *Africk* to the *Proconsul*. For, the whole Welfare and prosperity of Cities depending upon the *Curiales*, if they were thus diverted from their charges, the interest of the Provinces must be much impaired, and the Officials were more proper for such Employments. Being Soldiers themselves, they had better reason to understand the Habits that were most proper to such; and besides, they received some profit from the furnishing of these Cloaths; and therefore reasonable it was, that the advantage belonging to them, the Burthen should be also theirs. Other publick Officers there were, which in this same Constitution he gives order to *Eucharius* to reform. Particularly to put a stop to the injustice and

And redresses
other Grievances.

*Leg. de
tit. Cod. Theod.
Susceptorum
Th. et I. de
Cod. Just.
tit.*

St. 3. and Insolence of the *Mancipes*, or such as bought and exacted Horses for the *Cursus Publicus*, where the Provincials were not wont to furnish them; as in *Africk*. " *A. D.*
 They were careless in their Choice, and therefore, he will have the loss accruing by *4 1 2.*
 any unsound or unfit, to redound to themselves. In the last place, *Eucharius* had *L. 9. de Crisipis.*
 complained, that several Officials that had belonged to him, as *Proconsul*, had de- *Cod. Th.*
 serted their Stations, and betaken themselves to *Palatine* Employments, for this
 reason; that, being obnoxious to Punishment for their ill Behaviour, or oppressing
 the Country, they might shelter themselves in an higher and more privileged Ser-
 vice. To redress this Inconvenience, *Honorius* wrote, both to him, being princi-
 pally concerned; to *Seleucus*, the *Præfectus Prætorio* of *Italy*, as the Prime Minister
 of State in that District; and to *Probus*, the *Comes Largitionum*, to whose Of-
 fice the Fugitives had betaken themselves: Commanding that they should all be " *L. L. 22, 23, 24.*
 forced back to their several places; and, for the time to come, if any should pre- " *d. C. de Crisipis.*
 sume to offend in this nature, they should, during life, be condemned to serve as " *Cod. Th.*
Mancipes of the *Cursus*, or to the receiving of Tributes. Which Laws, this very *L. 25. infra.*
 Year, by another Constitution, he was constrained to reinforce.

16. Indeed it was the misfortune of the Provinces of *Africk* all along, to be more harassed with Grievances than any others, because they lay at such a distance beyond the Sea; and Complaints were stifled before they could be fairly represented to the Prince, as we have seen heretofore, in the days of *Valentinian*. This encouraged Officers to be so faulty and corrupt, that even such as were ordained to prevent Mischiefs and Disorder, made use of their places and power to commit greater Outrages than those they were appointed to redress. The Reader may remember that there were, upon occasion, certain Inquisitors sent into the Provinces, to look after Desertors, and such as straggled from their Colours. Usually the *Protectors* were employed in the business, and such as had the Title of Tribunes. These men were come to that height of Insolence and Oppression, making use of their Power to prey upon the Country; that, to answer the grievous Complaints of the Provincials, *Honorius* was now constrained, by an Edict directed to *Constantinus*, as *Magister Militum*, to abolish the Name very and Office throughout *Africk*, as unlucky; and to make it Capital for any to aspire to this condemned Employment, out of desire to prey upon the people. The Necessities of *Rome*, and the frequent occasions for marching of Soldiers, solicited him now again to quicken up *Selencus* to take care that the Body of the *Navicularii* should be full, and neither any Persons or Lands escape that were obnoxious to that Function. For their encouragement, he shortly after confirmed the Privileges of those of *Africk*, by a Constitution directed to them themselves; wherein he sentenceth such Judge or Magistrate as shall not give them Relief and Protection in case of any Grievance, to have his Estate liable and obnoxious to the Function, without any hope of Pardon or Release. He imposeth a Mulct of ten pounds of Gold upon any Judges of Provinces, upon the *Proconsul*, *Vicar* and *Præfectus Annonæ* of *Africk*, and their Officers, if they suffer any thing to be diminished of the hundredth part allowed them for Leakage, and if they permit any to receive any Present from them; and condemneth the Receiver besides, to pay four-fold the value into the Treasury. And whereas the *Tribune Notaries*, and the *Apparitors* belonging to the *Præfects*, were wont to be sent and employed by the Emperor and *Præfects*, to direct, assist and expedite the bringing in of Corn. If they shall receive any thing from the *Navicularius*, or from the Master of the Ship, he commands, that they be punished at the discretion and instance of the Judge or Magistrate of the place.

17. He farther provides for them in case they suffered Shipwrack ; That the “
 • *Judges* presently hear their Causes, the Hanging of the *Secretarium* being remo- “
 ved, so as they and others may freely enter, and be heard. And, if any Officers “
 or Clerks belonging to the Court, shall require or take any thing of them, he “
 gives power to the *Judge* to mulct, remove or proscribe them, according to the “
 Quality of the Persons. And, in case the *Judge*, having Application made to “
 him, either by offering *Libel* or bringing the Matter to a full Hearing, shall not “
 determine it within the allotted time, or the space of two Years ; then shall he “
 pay one half of the loss sustained by Shipwrack, and his Office the other half. “
 There being scarcely an end of Complaints out of *Africk*, the *Dumviri* of one City
 were said to press upon those of the lesser or inferior, and to extend their Jurisdi-
 ction beyond their Bounds. Of this *Honorius* was also obliged to take notice to *En-*
charius ; Giving order to punish such of them as should erect the *Fasces* of their “
 Authority beyond the Limits of their Territories. “ By which it appears, that at

Vile levato.
*Lult. de Nū-
 fragiis, Cod. Th.*
Et l. 1. c. Cod.
Full. Cod. Nat.
Dut. 17. Cal.
Api.
L. 174. de Pecun-
ioribus Cod. Th.
Et l. 1. c. Cod.
Full. Cod. Nat.

Sect. 3. this time *Duumviri*, or Municipal Officers, had *Fasces*, or bundles of Rods carried before them; whereas, of old, they had neither *Fasces* nor *Axes*, which were peculiar to Governors of Provinces, but only some *Beards*, or *Apparitors*, that carried Staves before them, as their name imported; which we may learn from *the Acts of the Apostles*. He was perswaded also, to give order, that the *Curiales* should be put upon the Priesthood, as formerly; the people still being unwilling to quit their *Ethnick* Pastimes; and, that the Sons of the *Curiales* should be drawn back to their Cities.

He labours to prevent the Exposing of Infants.

19. Such Devastations were made by the Barbarous Nations, of Corn, and other sorts of Provisions throughout the Provinces, that so great scarcity followed as provoked Lords of Slaves, and Patrons of Freed men, to expose such Infants as were born under their power. To obviate which Inhumane Practice, *Honorius* now thought fit to transferr the Dominion and Interest of such persons in the Children, upon those who would take, and bring them up; provided they produced Witnesses of their so doing, and reduced their Testimony into Writing, which he will have confirmed by subscription of the Bishop. This *Fustinian*, afterward did not so far approve, as to allow such Infant to be Slave to him that took him up; but would have him, if exposed, to be of ingenuous and free condition. There was more reason now to restrain this custom of Exposing in *Italy*, because the *Barbarians* were withdrawn, and the Country began to be a little at rest, after such Depopulations as it had undergone. And the City of *Rome* now again beginning to lift up her head, it was fit, that those multitudes which had forsaken her, and betaken themselves into the Islands, and the Eastern Parts, should return, repair her Ruins, and restore her to her former Estate. This the Emperor thought himself obliged to procure. So as, by an Edict directed to *Palmarus*, *Præfett* of it, he required, that By the Care of the Governors of Provinces, all *Corporati*, or those that belonged to the Bodies or Companies which served the Cities (as the *Bakers*, *Suarii*, and others) should be compelled to return to their Stations, and to discharge such Functions, as anciently had been imposed on them. Into the Country it was also fit, that the Possessors of Lands, and such as had cultivated the Grounds, should return. But many of them could not but be discouraged from returning to such places as were harrassed by the late Invasions, and such Lands as were rendred barren, and could not for some time be brought in tune again. Nay, such as possessed Lands, though fertile, yet were discouraged, to think, that by vertue of the *Epibole*, or Compensation, they must be burthened with that *Census*, or Tax, which was wont to be paid by those that had been deserted, and lay untilld. To give ease in this case, and to provide for the repeopling of depopulated places; *Honorius* rejecting the *Epibole*, and the former way of Compensation, sent Directions to *Fohn*, the *Præfett* of *Italy*, that such Lands as did not answer the *Census*, should be exactly viewed, and their Worth carefully and faithfully entred into the Cess-Books. This done, with all Justice and Moderation, they should be put into the hands of their Owners, or their Heirs: and, if such could not be found, of Neighbours or Strangers, who should pay no more than the Grounds would well and sufficiently afford. And not this neither, for some time; for, he allows them the Immunity of two Years, wherein they shall pay no Tax, the better to enable them to recover their Grounds to their former fruitfulness.

He provides for repeopling of depopulated places.

20. The Wantonness and Unnaturalness of some Women, who, often having had Children by former Husbands, either married suddainly again, without a regard had to Modesty and Respect of the Dead: or, if they did not do it suddainly, yet, when they did marry had no care of their Children by the said Husbands; had formerly provoked *Theodosius* the Great to make severe Laws for restraining their Irregular Appetite. Whereas formerly, from the time of *Romulus*, it had not been lawful to marry within ten Months after the Husbands death, he made it unlawful for them to contract a second Matrimony within twelve Months, or an whole Year. Such as should dare to do it, he branded with Infamy, as they had been formerly by the Law. And further ordained, that they should lose whatsoever Goods or Estates were coming to them from such Husbands, whom they had so soon forgotten; so as not to escape this Punishment by the Rescript or Indulgence of the Prince. This Law, afterward, *Fustinian* so far approved as to put it into his Code; yet, leaving out the last Clause of it, because he would reserve Power to himself to grant Indulgence, as of old the Senate had done, during the Commonwealth, and former Emperors, when a Woman was found not to be with Child; and to remit the Infamy, and restore to Fame when he saw convenient.

21. Further,

A.

4 1

ca. 16.

ibi. Daa

appellat.

Lucc.

2. 170.

L. ult. de

fit. Cod. 7

14. C. 1.

L. ult. C.

de Injan

L. ult. d

legis

torum, 1

Th. Dat

Apr.

L. 12. de

ribus, C. 1

Dat. 8. 1

Abest a

Just.

L. 1. de

Nuptiis,

lib. 3. 1.

L. 2. C.

ad. tit.

21. Further, *Theodosius*, to provide that Children of the first Marriage should not be wronged, as it too frequently happens, from the Indearments of the second; enacted by another Law, that, of all the Goods or Estate that came to a Mother from a former Husband, or from any Children of the said Husband, the Propriety should remain to the Children of that Husband surviving; so as the Mother, marrying again, should only have the *Usus-Fructus*, or Profits thereof during her life: Only, he left it free to her to assign such Estate to whom of the Children she pleased, his design being to secure it from passing unto Strangers: which Election of the Mother, whether she married again or not, succeeding Princes thought fit to take away; so as she could only consign the Profits, during her own life, to whom she pleased; the thing it self being equally to be divided amongst the Sons after her Decease. In case one of the Children died, brothers were to succeed Brothers, and excluded the Mother. If no Brother was left, then the Mother came in with the Sisters, she sharing one half, and they another. But afterward *Fustinian* altered the Law, so as to give the Mother leave to come in, with her Sons, to an equal share of a Son's Estate; and with Daughters he assigned her but an equal share also. This was in favour of Mothers, in comparison of the old Law and Custom, which gave Right of Succession to the Grandfather by the Mother's side, and excluded the Mother, if married again. In case a Woman had Children, she could have but the benefit of the Estate during life, if she married the second time; but, if she had none, the entire Propriety came unto her; *Theodosius* his intent being only to make provision for the Fatherless. And, as his care was especially for those that were Fatherless, he did not forget Motherless Children: but, betwixt Fathers and Mothers he put a difference. He supposed Fathers would be more prudent, and retain their Authority over their Wives and Families; while the weaker Sex was more subject to be overcome, by crafty Insinuations, or downright Threats. Therefore he would not compel Fathers, when they married again, to assign all that came by their former Wives, to the Children they had by them: but he gravely admonished and conjured them, by the Rights of Justice and Religion, to do that which, if good advice and fair words would not procure, then the force and efficacy of a Law must exact.

22. And his Advice or Suasory had not that effect which might have been expected, which forced his Grandson, afterward, to make good what he hinted concerning the Force and Compulsion of a Law; and thenceforth, as well Men as Women, were alike concerned and obliged. But now, in *Honorius* his time, Husbands or their Sons were become so careless and dis-ingenuous, as to deprive their Wives or mothers, if they could of the *Usus-Fructus*, or Profits of such things, if they wedded again, though the Year was out, as had been settled upon them at their former Marriage. This constrained him this Year to take notice of it, in an Edict directed to *Fohn*, the *Præfekt*; And to restrain the malapertness of such Sons as would not allow their Mothers such provision as had justly been made for them, but enquired into their Age before the Day. As he acknowledges the Propriety of the things to be in them, so, on the other side, he asserts the Law of his Father, and the Right of their Mothers during life. Again, notwithstanding his late Endeavours, such Complaints were made of the Cities of *Italy* being still empty and forsaken, that he was compelled to give order to *Liberius*, the *Præfektus Prætorio*, to force back both the *Décursionés*, the *Officials* or *Apparitors*, and also the *Collegiati*; of which, there were several Companies destined to the Pleasure and Recreation of Cities; which now he thought fit to gratifie with such Diversions, though they had their Original from Pagan Superstition. And, as if one sort of men infected another with negligence of Place and Duty, the *Agentes in Rebus* were now so guilty of this fault, that they provoked him, at the end of the Year, to command *Namaci*, the *Magister Officiorum*, to let them know, That such as had loitered after the time was out that had been given them, should return to Court, and there give an Account of their Absence, before the first day of *February* next following. If this they did not do, their Names should be expunged out of the Roll, and they should be further punished. And the Governors of Provinces, if they suffered any of them to stay and loiter within their Jurisdictions, must pay six Ounces of Gold for every Loiterer.

23. As *Honorius* laboured this Year for repairing such Breaches as the Misfortunes of the Wars had made; so, at *Constantinople*, his Nephew *Theodosius*, or rather, *Anthemius*, his Prime Minister, endeavoured to prevent such Calamities, which was better. It concerned them chiefly, to look to *Ilyricum*, through which so great miseries had entred

A. D.

4 1 2.

L. 2. Cod. Th.
c. 14. d. 1. c. 3.
Cod. Just. mod.
111.

L. 2. Cod. Th.

c. 14. d. 1. c. 3.
19. Cal. Jul. Al.
est a Cod. Just.L. 25. de Cohor-
talibus. L. 170.
de Decurionibus
c. L. 2. de Col-
legiatis Cod. Th.
Dat. 6. Cal. Dec.L. 15. de Agen-
tibus in Rebus.
Cod. Th. Dat. 7.
Id. Decemb. d. 1.
a Cod. Just.the Rights
Gothers.

Sect. 3.

They at Constantinople endeavour to prevent mischief arising from War.

entred into the Empire ; and therefore, *Herculius*, the *Prefectus Pratorio* of that District, was injoined to take care, that, No persons by any Privileges should be excused from contributing according to the quantity of what they possessed, towards the Repairing of Walls, and Conveyance of Corn, or other Species for the publick Defence ; although Dignified Persons were wont to be excused from other Collations. The great Fear and Anxiety wherewith all persons could not but be strook, that understood any thing of the dangers that threatned the whole Empire (though the Western Provinces sustained the shock) put those that had the Government in their hands, upon the Promotion and Encouragement of all Works and Employments which tended to the Defence of the Borders. Amongst others, the making of Arms in the *Fabrica*, or Forges, especially deserved it. But, of this an ill Use and Advantage was made by such *Curiales* as had a mind to run away from their Employments ; who betook themselves to those Forges, expecting to be connived at, as being therein very serviceable to the State. Great Complaint hereof was made by those of the East ; who convinced *Anthemius*, that, though the Work of the Forges was by all means to be plyed, yet the Cities must not be exhausted and ruined ; for the Defence of which, the making of Arms was only designed. He procured a Rescript to be directed to himself, wherein Order is given, that, If any person have a purpose to joyn himself to the Body of the *Fabricenses*, he shall either before the Governor of a Province, or the *Defensor* of a City, prove himself to be altogether free, as to Birth, and other Obligations, from the Service of the *Curia* : otherwise, he shall be forced back, to discharge the Duties of his Country, without any Allowance to Prescription of time. And, because there were great Clamours in *Phenicia*, against *Lupianus*, the *Comes*, & *Magister Militum* through the East, that the *Curiales* of that Country were wont to shelter themselves amongst his *Officials*: Command was sent to him, that, The principal *Decuriones* having given notice to the Governors of Provinces of such Fugitives, and they having made report thereof to him, he should transmit them to the said Governors ; who, after examination of the matter should give sentence & send them back to their former Charges.

24. But having lately spoken of *Illyricum*, we must take further notice of the great Complaints which were made now also, in that too often harrassed Province ; which caused them at Court to bethink themselves of a new way for raising of such Provisions as they called *Annona* and *Species Cellarienses*, due to the Civil and Military Magistrates, or the Governors of Provinces, and the *Comites*, or *Magistri Militum*. The Law and Custom had been for the *Procurators* of the *Curia*, to take care for the leavying and payment of them in Mony ; but, it being discovered that more than due, was, upon this pretence, squeezed out of the poor Provincials ; and that whereas, for one hundred and twenty Oxegangs one *Solidus* was but to be paid ; the Avarice of the Governors and Officers was such, that they exacted as much for the half, nay, at last, for the fourth part : and this was done under pretence of the Charges that these *Procurators* or *Primates* of Courts were at. Therefore now was it ordained, that, the *Cornicularius*, or he that was next to the *Princeps* of the Office of the Governor of the Province, should, out of the publick Store-houses, furnish the Officers with Provisions ; allow them Gold, as was usual, out of the Tax raised by the *Prefectus Pratorio* ; and pay those in Mony who should desire it, in lieu of the Provisions in Specie, according as the Market bore. If the Office of *Zonitius*, who, before this, had been advanced to be *Prefect* of *Illyricum*, should fail to put this Law in Execution which is directed to him, it sentenceth it to fine in fifty pounds of Gold. At the same time *Anthemius* was solicited by those of his District, against the Immunities and Protections which were granted to divers persons, whereby they pretended themselves excused from contributing to the necessary Duty of Amending of High-Ways in all the Provinces, especially in *Bithynia*. He procured an Edict to be directed to himself, for rendring null and ineffectual all such Rescripts and Immunities, and to require Contribution, according to the quantity of the Grounds possessed near the said ways, for repairing them ; as also for other Services according to the quantity of the Lands where they were to be discharged. Now was carrying on a magnificent Work at *Constantinople*, called the Baths of *Honorius*, with a stately *Porticus* adjoyning. But the Work could not go on to perfection, nor that Grandeur which was intended, without taking in the Grounds belonging to private persons. To make them Compensation, & that so great an Ornament and Convenience to the City might not be stopped, an Edict was directed to *Isidore*, the *Prefect* of it ; Whereby was made over to such interested persons, a place called the old *Basilica* ; to have and to hold, to them and their Assigns, by way of full Right and Title, there to build.

A. D.

412

L. 49. de
bus pub.
Col. Th. D.
Id. A. 1.

L. 6. de
cenibus. l.
C. L. 4. de
Just. con. l.
Id.

L. 175.
vionibus C.
Dat. 15. C.
Jun. Abi.
Cod. Just.

L. 32. de
tione An.
Annon. l. 1.
Dat. 16. C.
Sep.

L. 5. de
Munition.
Th. & L. 2.
Just. con.

L. 1. de
publ. C. 1.
Dat. 3. C.
Abi. l. 1.
Just. l. 1.
C. 1. de

25. The CCCCXIII Year of our Lord hath, in the *Fasti*, the name but of one Consul, *Lucius* : and sometimes, elsewhere, it is known by this mark ; *After the ninth Consulship of Honorius, and the fifth of Theodosius.* The reason, for that *Heracianus*, who had managed matters so well in *Africk*, against *Attalus*, was named Consul with *Lucius* : but, taking into his Assistance one *Sabinus*, his Domestick; whom, being a notable cunning Man, he made his Son in Law, he set up for himself ; and usurping, his name was expunged out of the Registers. *Orosius* writes, that he kept back the Supply of Corn, by which the City of *Rome* was wont to be nourished ; and thitherward sailed with an incredible Fleet, which, by report, consisted of three thousand and seven hundred Vessels ; a number, of which, neither the famous *Xerxes*, nor *Alexander* the Great, nor any other King was Master, that we know by History. He landed his Men, and marched up towards *Rome* ; but, in his passage, was opposed by *Marinus*, a *Comes* ; who so ordered his matters against him, that he discouraged and put him to flight ; so that glad he was to procure a Ship, wherein to sail to *Carthage* ; and there, after a short space, the Soldiers, who judge ever of Men according to Success, revolted from him, and slew him. Some say, he was killed by some that were sent from *Honorius*, in the Temple of *Mercury*. *Sabinus* got away safe to *Constantinople* ; where having continued not long, he was fetched back, and condemned to Banishment. This Year, as *Cassiodorus*, and others observe, the *Burgundians* siezed on part of *Gall*, lying toward the *Rhine*. For, perceiving their own weakness, they had not any mind to struggle with, or oppose *Constantius*, the Emperor's General, but desired Peace ; which he was not averse to grant, lest, by an ill success against them, he should stain the Glory of his former Actions. The *Franks* understanding what was done, and taking it in high disdain, that the *Burgundians*, an inconsiderable People, should obtain that in *Gall*, which they, by so many Invasions, had not been able to compass ; suddenly gathered together, passed the *Rhine*, and, amongst other Towns, took *Triers*, which they plundered, and afterwards set on fire, not sparing the Inhabitants, of whom numbers were killed, and their Bodies lay unburied, and were eaten by Fowls and Dogs ; even of both Sexes.

26. The Provincials of *Africk*, however harrassed, yet were of a light and jolly humour, if the Rod was removed from their Backs but a little time. They were extraordinarily addicted to Sports and Shows ; particularly, those that were set forth by the Pagan Priests ; who left their own Cities and Provinces, and betook themselves to *Carthage*, the *Metropolis*, where the Pastimes were exhibited in most lustre ; and despising their own Countries, both staid long there, and got Houses wherein to inhabit. *Honorius* would not, by any means, spoil the sport of the people there, for which he had provided by several Laws : but, that the other Cities might not be deprived of their Pastimes, by the flocking of their Priests to *Carthage*, he thought fit to give Order to *Julian*, the *Proconsul* ; that, These Strangers Priests should depart *Carthage* within five days after the solemnizing of their Games, or before the first of *November*. If any that did not belong to the Court of that City should be found therein after this term, he must incur a Fine of thirty pounds of Gold. But, about the same time he received Information from the *Tribunus Voluptatum* (*Diogenianus* by name, and stiled *Vir Clarissimus*, whose work it was at *Carthage*, to preside over the Players, to regulate and govern both the Pastimes, and them that made them, as other *Tribunes* did in other principal Cities) that the people were much offended, for that it had been some time since practised, by a Rescript obtained from the Emperor, to set loose and free from that Service, to which they were ordinarily obliged for life, the *Mimicks* that pleased them upon the Stage. He thought fit, so far to gratify the multitude, as to write back to *Diogenianus*, to force and recall to the Service such *Mimæ* as had been set at liberty by order of the Prince. He decrees that they be recalled with the greatest Instance, that, as he saith, *would Ornament may be wanting to the Pleasures of the People, and to Festival Days.* We cannot say whether the displeasure conceived by the people, for loss of their *Mimicks*, contributed to the Rebellion and Usurpation of *Heracianus* . But if this Rescript was intended to quiet their minds, it came too late, and not till that Tempest was over ; being by it hindered from crossing the Seas. For, though it bears date of the beginning of *February* this Year, it was not received at *Carthage*, by the *Tribune*, till the latter end of *January* following.

27. But *Honorius* employed his *Quæstor* at this time, in matters more serious and profitable. By Nature he was a great Enemy to the Tricks and Subtilties of the ancient Laws, and maintained a constant War against them. Particularly, as to the

Sect. 3.

Settles the making of Testaments betwixt Men and Wife

making of Testaments; he abhorred the wonted tedious Forms, and the vain and unnecessary Phrases and Words; resolving to give ease to the People, by Allowance of a more Compendious Way. By the old Laws, *Fulia* and *Papia*, Husband and Wife, could not make each other their Heir, except they had Children betwixt them. This, ordinarily, they could not do, except they obtained a Dispensation or a Privilege, which they called *Fus Liberatorum*, as we have already said, which conferred on them such power, as the absolutely having Children, would have afforded them. And, this privilege was of old time obtained from the People, and afterwards by Rescript of the Prince. But now, *Honorius* ordained, that, If Man and Wife lovingly, and by consent, put up their Petition to the Emperor, and therein included their Testaments which they prayed might be allowed of and confirmed; such Testament should be of force, provided the Petition could be proved by two Witnesses, although the Prince granted out no Rescript, if he did not expressly deny the Suit: for, as the Rescript would have been chargeable, so it was not convenient that the Emperor should particularly declare his Opinion, lest the full liberty of making Wills should be infringed. Testaments thus insinuated before the Prince in Consistory, he would have to be understood valid, and of full effect; both for the ease of the People, and asserting of the Imperial Authority. But yet, it should not be understood that this should take away the Right of any Person, or to prevent just Complaints or Claims of such as the *Roman* Laws allowed, to except against the Testaments, in which they themselves were passed by.

A. D.

413.

An Act of Grace for remitting of Ar-
tears.

28. This might well please the more wise and considering sort of people; but shortly after he passed an Act of Grace, which could not but give great content unto the multitude. Being satisfied how much some of the Provinces of *Italy* had been wasted more than others in the late Wars with the *Goths*, he had so great respect to their present condition; that for five years Dues in all sorts of Payments and Tributes, he ordered *Fohn* the *Præfectus Prætorio* to exact but one, viz. from the Year CCCCX to the Year CCCCXV, remitting and pardoning all the rest, except what belonged to the *Cursus publicus*, which was of such consequence, and at this time was in so ill a condition, that there was necessity to supply it. This plenary Indulgence he granted to *Tuscia*, *Picenum*, *Samnium*, *Apulia*, *Calabria*, *Bruttii* and *Lucania*. Which Provinces had born the Brunt in the late Invasions, but were not joyned so as to make up a *Diocesis*, or further concerned together than as to loss and calamity. This Act of Grace was of greater consequence than another Favour he granted a Month after to some of the *Scriniarii*, who served in the *Scrinia*, or Offices so often mentioned. Both *Valentinian* the younger, and also *Arcadius*, had given to them all the privilege of entering the *Secretaria* of the Ordinary Judges, or such as were of the Degree of *Clarissimi*, as *Consulares* and *Præsidents*, but not of these of the Dignity of *Speṭtabilis*, such as were *Proconsuls* and *Vicars* of *Præfects*. But now *Honorius* thought fit to enlarge this privilege to those of them whom they called *Melloproximi*, and others as far as the *Exceptors*; conferring on them the Title of *Clarissimus*, and giving them leave to enter the *Secretaria* of the Judges that were *Speṭtabiles*, and to sit with them. The *Melloproximi* were, as we have said, they that were to be *Proximi* after two years, while the office of *Proximus* lasted so long, which afterward was made Annual. *Fustinian* in his time, or *Tribonitum* for him, extended this privilege to all the *Scriniarii* indistinctly. *Honorius* his Hand now being in, to be kind to his Servants, the next day extended the favour he had given ten years before to the *Agentes in Rebus*, of being free from finding *Tirones* and other Burthens; to the *Palatine* Officers, belonging to his two *Treasuries*; the *Adjutors* and *Primicerii* of the divers Offices, who had diligently and faithfully discharged their Duties.

Acts of considerable Severity.

29. As he found reason to be kind to such as faithfully served him, so he had as much to be severe to those that absented themselves, and deserted their Duty. Six days after, he was provoked to send out an order to *Gaiso* the *Comes & Magister Militum*, requiring, that such Desertor as without leave discontinued, and lay loitering at home, or in other places should, for the first years neglect be placed below ten Soldiers next under him; for the second or two years, below twenty; for three years below thirty; and if he loitered the fourth, then be cashiered. The like severity was practised in the *Militia Palatina*, as in the *Armata*; but herein differed, that a Loiterer after four years was to suffer Regradation below forty; and then if he still discontinued, his name was to be expunged. While *Honorius* was thus employed in censuring Crimes and Defects, it could scarcely be, but that something should occur about *Africk*. And indeed such fresh complaints

Vide L. ult. de iust. et leg. p. 15.
L. ult. de iust. et leg. p. 15.
L. 6. de iust. et leg. p. 15.
L. 19. de iust. et leg. p. 15.
L. 1. de iust. et leg. p. 15.
L. 1. de iust. et leg. p. 15.
L. 1. de iust. et leg. p. 15.
L. 1. de iust. et leg. p. 15.

L. 7. de iust. et leg. p. 15.
L. 1. de iust. et leg. p. 15.
L. 1. de iust. et leg. p. 15.
L. 1. de iust. et leg. p. 15.

L. 16. de iust. et leg. p. 15.
L. 1. de iust. et leg. p. 15.
L. 1. de iust. et leg. p. 15.
L. 1. de iust. et leg. p. 15.

L. 20. de iust. et leg. p. 15.
L. 1. de iust. et leg. p. 15.
L. 1. de iust. et leg. p. 15.
L. 1. de iust. et leg. p. 15.

L. 16. de iust. et leg. p. 15.
L. 1. de iust. et leg. p. 15.
L. 1. de iust. et leg. p. 15.
L. 1. de iust. et leg. p. 15.

sect. 3. complaints were thence lately arrived, as put the *Quæstor* the same day upon drawing another Edict, directed to *Fohn* the *Præfect*, for the redressing of a Grievance in that his troublesome Diocess. The Provincials were always supposed obnoxious to the *Metatus*, or Quartering, as there was occasion; but under pretence of what legally was to be demanded, too much was exacted by the Officers, both Military and Civil; the Employments of whom engaged them to be upon the Road more than ordinarily. To prevent which inconvenience, he now ordained, That such Officers as should have occasion to travel, should send no *Mens* or Harbin-ger before them, whom, if they so did, it should be lawful to beat or drive away, as the Country saw occasion. Neither should they exact any thing in way of Provision for Man or Horse. If a *Governour* of a Province, a *Surveyor*, an *Apparitor*, or any other Officer should do it, he fines him in the sum of ten pounds of Gold, requiring, that he use no delay, but make as speedy passage as possible; and he threatens him with punishment who shall give or contribute any thing more than ordinary to such a pretender.

A. D.

413.

L. 10. de Mea-
tis, Cod. Th. &
L. 5. Cod. Just.
ind. tit. Dis.
P. ad. Id. Jun.

The Estate of
Heraclianus
confiscated by
an Edict.

30. By this time *Heraclianus* the Usurper was suppressed; and shortly after, in the beginning of *August*, came out the Proclamation or usual Edict in such cases, directed to the *Honorati* and *Provincials* of *Africa*. Herein *Honorius* declared, That having judged him a publick Enemy, he had justly condemned him to be punished, by cutting off his unlucky Neck; and that in the same manner his *Satellites* should be prosecuted. All manner of persons, as well private Men as Soldiers, he invited to discover them, or any of them, and that without fear of Envy, which usually accompanies Informers. And he commanded, that such as had any of their Goods in their Hands, to make known and produce them. Thus was the Estate of *Heraclianus* confiscated, which scarcely amounting to the value of twenty *Centenaries* of Gold in Moveables, and in Immoveables of two thousand pounds, was afterward bestowed on *Constantius*, the Consul of the following Year. But with this censure the Emperour did not think him sufficiently punished. For he having been nominated Consul for this Year, and his Name being inserted into Acts and Instruments, he commanded by another Edict directed to *Hadrian* the *Præfectus Prætorio*, that it should be expunged out of all, both publick and private Writings, and his Memory utterly abolished. Moreover, that what had been done by him should be null and void; insomuch, that though Leave should not thereby be granted to such Lords as had manumitted their Slaves, of reducing them again into bondage; yet the Act being, as his, void in it self, should be repeated, and the solemnity of Manumission reiterated. Which was wont to be done before the Consuls, when they entred into their Office; and indeed was the chief thing wherein they were employed, as we have shewed in the Polity of the Empire.

L. 21. de Pæni-
bus, Cod. Th. Dat. 7
Non. Aug.

Acts, as
is, nulled.

L. 14. de Infr-
mand. h. c. que
sub Tyrannis,
Cod. Th. Dat. 3.
Non. Aug. Aug. 4
Cod. Just. ut
temporaria.

do not re-
solves the
evidence
to Officers.

31. In the mean time *Theodosius* in the East had no such occasion to employ his *Quæstor* in such Acts of necessary and wholesome severity. On the contrary, he passed Acts of Grace; and being not diverted by Wars or Conspiracies, had occasion to honour and reward such as faithfully served him in time of peace, of which there were such numbers, the vast extent of the Empire requiring it, that about the ordering and regulation of them there seldom wanted some Inducements. As persons of Employment, and especially Courtiers, are wont to be much concerned about place and precedence; so especially when idle, and having nothing else to divert their thoughts: and so it happened at *Constantinople* at the beginning of the year, where several of the first Order or Rank of *Comites* jostled one another. This put *Theodosius* upon framing a large Constitution for regulating so high a concern, which we find directed to *Priscian* the *Præfect* of the City, though not *Priscian* the Grammarian, as hath been questioned, who taught in this City some sixty or seventy years after. Therein he determined, that the *Præpositi* and *Tribunes* of the *Schola* (as of the *Scutarii* and *Gentiles*, formerly mention- ed) who were admitted to the Emperor's Table; and had the privilege amongst the *Domestick* *Protectors* and others, to adore the Purple, as also the *Tribunus*, or *Comes Stabuli*; and he they called *Cura palatii*, who oversaw the Emperor's Build- ings; if together with their Charges they had obtain'd, during the exercising of their places to be *Comites* of the first Rank, and perhaps had not been farther promoted, when they left their Offices they should be reckoned with, or made equal to the *Comites* or *Duces* of the Limit of *Aegypt*, and of the Diocess of *Pontica*, who, after the *Comes* of the *East*, because of the importance of their Charges (the Countries under their Command being obnoxious to dangers) had more

L. 11. de Comi-
tibus & Tribu-
nis scholæ, Cod. Th. lib. 6.
tit. 12. & L. 17.
Cod. Just. cod.
tit. Dat. 12. Cal.
Apr.

Sect. 3. Honour conferred on them, than had others of their place, as in the West had “*the Comites Rei Militaris* beyond the Seas. But if those persons had exercised “*their Employments with the Dignity of Comes* of the first Rank, than at their going out they should have such precedence, as had the *Duces* of the Provinces, “

32. At this time it was often practised that some expert Commanders should be sent into the Provinces upon special service, as Deputies of the Illustrious *Magistri Militum*; and it was also now grown ordinary for the Emperor, when he put such, or others upon Employment, to grace and dignifie them with the *Comitiva* of the first Rank, to encourage them, as should seem, or make them more awful, though formerly such rewards had been wont to be deferred, till the laying down of their places. Now *Theodosius* farther determined in this same Constitution, That such as by his Authority were sent with a Command of Soldiers to protect one or more Provinces, and such as undertook to execute the Office of *Magistri Militum*, should be made equal with the *Duces* of the Provinces (those of *Ægypt* and *Pontica* being excepted) if they had been dignified with the *Comitiva* of the first Rank, which was appropriate to those that were of the Degree of *Spētabilis*, those that were illustrious being stiled *Comites*, without any addition of first, second, or third Rank; all which, as merely such, were vastly below them. Moreover, he ordained, That the *Archiatri*, or Physicians of the Palace, if they were innobled with the *Comitiva* of the first Rank, should be equal, and take place amongst the *Vicars* and *Duces*, who had been actually in Employment, and had also obtain'd to be *Comites* of that Rank, so as time only should distinguish them. Further, he saith, that he must not pass over in silence, such as having been in Civil Administration, and the Government of Provinces, had also obtain'd the same *Comitiva*, declaring, That they, after the quitting of their Employment, shall enjoy the Privileges belonging to the Dignity of *Vicars*. And he thought it as reasonable to grant the same favour to such Lawyers, as had been *Adfessors* to Illustrious Persons in actual Employment; whether in the Provinces, as the *Præfetti Prætorio*; or in the Palace, as the *Quæstor*, the *Magister Officiorum*, or the two great Treasurers: that, If they were adorned with the *Comitiva* of the first Rank, they should have equal Place and Honour with *Vicars* of *Præfects*; affirming it an absurd thing that they should be below them. In the last place, he extends this privilege to some *Artificers*, *Mechanicks*, such as had the Charge of publick Works, and even some who had but slender Employment in the Provinces. For, sometimes it happened, and fit it was, that such as these, for some important Invention, some extraordinary Work or Service performed, were also promoted to be *Comites* of the first Rank. *Symmachus* makes mention of one *Cyriades*, to whom he gives the Title of *Vir Clarissimus*, and calls him *Comes & Mechanicus*, and *Mechanice Professor*, who contended before him, then *Præfect* of the City, with one *Auxentius*, a Man of the same Degree, about too much Expence made upon a *Basilica* and a Bridge. The Emperor allows to such, after the laying down of their Employments, place amongst the *Consulares*; but leaves it in their power to refuse it, if they be unwilling to undergo the burthens incumbent upon that Dignity; as the two he mentions of the *Glabalis Collatio*, to which they were obnoxious as *Senators*; and of frequenting the Senate, and other Meetings, to which the *Honorati* were obliged, there being often occasion for their Debate and Consultation in the Provinces.

He provides
for the Orna-
ment of Con-
fession, &c.

33. Now was raising the Wall at *Constantinople*, the building whereof Writers ascribe to the Providence and care of *Anthemius*, who enlarged the *Pemarium* of the City towards the Sea; and if we can believe them who affirm it, got the Wall finished in two Months. There was necessity it should be carried through the Grounds of private Persons, the Rights of whom were not to be invaded; and yet, reasonable it was, that private Interest should give way to publick Convenience. To make recompence to such Proprietors, *Anthemius* procured a Rescript to be directed to him, whereby the Towers of the new Wall should, when the Work was compleated, be assigned to those in whose Grounds it stood. Of these Towers they might make use, on condition, that they, and such as into whose hands the Ground should come, did yearly, at their own Charge, see to the repairing of them: and here- by he concludes, that the Splendor of the Work, and the Defence of the City would be joyned with the Use and Benefit of private Persons. While *Theodosius* thus provided for the Ornament and Defence of *Constantinople*, the condition of *Ilyricum*, which had been miserably harrassed by *Alarich* and his *Goths*, loudly called upon him, to use some means for the Supply of its Cities and Towns with Per-

sons fit to undergo the use & burthen of the *Curie*. There were not wanting those, who, though not obliged by their Original, or any other way, were content to serve their Country. But former Princes, to provide more effectually for the service of Corporations, had made it unlawful for such as imbodyed themselves once amongst the *Decuriones*, to recede at pleasure: which deterred all that were at liberty from subjecting themselves unto that Yoke.

34. They about the Emperor therefore thought convenient to take off that Rigour, that such as pretended kindness might not have too plausible an Excuse, that for their good Will they should make Shipwreck of their former Freedom: and now a Law was made, that, When any such person had a mind to oblige a Town or City by discharging some particular Duty or Service, he should, in presence of the *Curia*, or the major part, before the Governor of a Province, or the Defender of the City, promise to undertake it; with a Protestation, that he would not thereby become obnoxious, or bound: and this the *Decuriones* should admit and engage, that he should do it without any prejudice to Liberty, Estate, of himself, or of his Heirs. This *Theodosius* did now enact in particular; and afterwards ordained in general, that, the voluntary undertaking of an Employment should prejudice no man. He farther, now, conferred on them the Privileges belonging to a *Civitas* when they had done their work. But whereas, in the distressed Estate of *Illyricum*, when persons were wanting for Employments, some of the *Civiles* would undertake some Charges which they were not bound to undergo; on condition, when they had done their work, then to be loosed and freed from the *Curie*. He utterly disliked the practice, and commanded that such should be forced back, in this same Edict directed to *Leontius*, the *Præfect*. "We have formerly heard of Complaints made against the *Magistri Militum*, or other Military Officers, their intermeddling with Civil Causes and Persons; and the practice was so far condemned, that now they ran into the other Extreme; and made it a Question whether, when a Soldier was sued by a private Man (here Private is opposed to Military) it should be in the Court of a *Magister Militum*. To clear this Doubt, *Anthemius* received a Rescript, whereby it was declared for Law, that, The *Magistri Militum* might determine matters in controverſie betwixt two such Persons; the Military Man having no other proper Judge, before whom he could be tryed, or by whom punished."

35. In the CCCCXIV Year of our Lord, *Constantius* was made *Cæsar* in the West, and *Constant* in the East. *Honorius* had his Abode still at *Ravenna*, and *Theodosius* at *Constantinople*. On *Constantius* the Honour of *Cæsar*, and of *Patrician* (if not now, shortly after) was bestowed, for his Service against the *Goths*, and the hope that was farther conceived of him. Some tell us, that now he came to *Rome*, and that, in his place was put *Castinus*, the *Comes Domesticorum*; who, in his Absence, fought several Battels against the *Franks*, with such success, that he constrained them to quit the Towns they had siezed, and once more to retire beyond the *Rhine*. In the mean time *Ataulphus*, King of the *Goths*, governing a Warlike and restless People, began to afford matter of Jealousie and Anger to his Brother in Law *Honorius*: and, having *Attalus*, the late Tyrant and Mock-Emperor, with him, whom he had brought along with him out of *Gall*, he caused him now to reassume the Purple, and pretend to his former usurped Power. *Honorius* seeing the League broken by *Ataulfe*, resolved to prosecute him with War; and, for that purpose, procured *Constantius* to return into *Gall*: who, as *Orosius* writes, in the fourth Year after the taking of the City, having his Quarters at *Arelatum*, by his great Industry and Expedition, drove the *Goths* out of *Narbon*, and forced them to betake themselves into *Spain*; having intercepted all Inter-course by Sea, and all Foreign Commerce. Others tell the story, more largely; how *Constantius* marched with his Army to the City of *Narbon*, and threatened to lay Siege to it if *Attalus* was not delivered into his hands. *Ataulfe* refused to do it. But, the other being as good as his word, when *Ataulfe* found the place and himself in great danger, he resolved to forsake it, and pass over with his Army into *Hispania*. To this purpose he brake out of the Town, and went directly to the Sea side to ship his Men: but finding there no Vessels, for that *Constantius* had prevented him, he resolved for the hithermost *Spain*, which, as yet, was held by *Honorius*; and, taking along with him *Attalus*, who could not be safe without his Protection, he placed him at *Barcino*, a City of the Province of *Tarraco*, now *Aragon*. Here he made a shew for some time; but, shortly after, despised by the *Goths*, he was cunningly siezed, and presented to *Constantius*; who, gladly beholding such a sight, sent him to *Honorius*; by whose Order he was committed to Prison, and reserved for a

Triumph

Sect. 3.

Honorius appoints two Commissioners to hear and redress the Grievances of *Africk*.

Triumph after the *Gothick* War. This *Prosper* placeth at the following Year. 36. Now, for Grievances and Complaints thereupon, which could not but often happen in a vast Empire, and which give occasion to all or most Laws in fixed and established States (those at the first founding of Colonies, being more Directive than Corrective) it must needs be, that *Africk* have the first Audience. And, at this Audience, *Honorius* received so much satisfaction, that, as he saith himself, Left, by reason of the Interposition of the Sea, the Complaints of the Provincials should perish, he appointed the Illustrious *Pilavianus* and *Cecilianus*, who had been *Præfetti Prætorio*, to receive all things that should be offered in that kind, from any persons whatsoever. And because, at this time, the publick Necessities required extraordinary Payments, and great murmuring there was of the Inequality of Burthens, he resolved that they two should examine and adjust such matters amongst the Provincials, and no more dispute thereof be made after their Determination. Hereby was obviated the Rapacity of Soldiers and Officers of the Revenue, or others: which he further restrains by charging *Hadrian*, the *Præfekt*, in this same Constitution, that, All Free Quarter, or Exaction of Provisions for Man and Horse, as also, of private Baths, be taken away in that Country. And, being now wearied with the continual Clamours made against the Rapacity and Oppressions used by the *Curiosi*, He commands them to be utterly removed out of that Diocesis; and the *Apparitors* of *Judges* so far restrained, that they shall not exercise the Rapines and Deprædations they were wont, over the *Curiales*, *Navicularii*, or other Bodies.

37. As the distance of *Africk* subjected it to many Inconveniences, so was it not furnished with so able Lawyers as other nearer Countries. Yet was *Julian Proconsul* there, now, the second time: But, together with the former Complaints, he consulted the Emperor about favour to be shewed towards Minors and Women, in Law-matters. *Honorius* answered, that, By innumerable Authorities (Laws of Princes, or Reports and Sentences of Lawyers) it was evident that they were provided for in things which they had omitted, or were ignorant of. If they omitted the first and proper Judge, and immediately betook themselves to the Superior. If they omitted to except against a Testament by the *Quærela Inofficiosa*. If they omitted to take possession and the like. Again, if they were ignorant as to Law, *Minors* were wont to be restored in *integrum*; which Privileges this Constitution declares common with them to Women, though of ripe Years; which succeeding Princes thought, in several cases, to be restrained, making a difference betwixt them. And *Honorius* himself, in this same Constitution, maketh also some difference; declaring that, A *Minor* cannot stand in Judgment, the Writ of the Interdict not lying against him, though he had the liberty to bring it, as well as other persons, by the Authority and Mediation of his *Guardian*; against whom it is also to be brought. Further, to give all satisfaction imaginable, and cut off all Complaints, as much as in him lay from that restless People of *Africk*, a Month

He indulgent to their *Navicularii*.

after he signified to *Seluchus*, who had succeeded *Hadrian* in the *Præfectship* of *Italy*; that, He fully pardoned and forgave to the *Navicularii* of *Africk*, all Arrears that were behind, from the fourteenth Indiction, and the third Consulship of *Valentinian Augustus*, together with that of *Entropius*, till the fourth Indiction, or his own seventh Consulship, together with the Second of *Theodosius*. This contained the space of twenty Years, from the Year CCC L X X V I I, to the Year C C C C V I I; so that he would only have exacted the Arrears of the last seven Years. This is better known from what *Honorius* saith of the Consulships, than by the Indictions; for, what he calls in this Law the fourteenth Indiction, elsewhere he himself terms the first, and others the fifteenth; and what with him is the fourth, his Nephew *Theodosius* calls the fifth, and others the sixth. This Variety hath much perplexed Learned Men, who considered not the reason of it, till learned *Gothofred* of late suggested it. The beginning of Indictions, in all places, was not the same: the Original of the *Italian* is to be fetched from the CCC X I I Year of our Lord; that of the Oriental Parts, from the Year C C C X I I I; the *Carthaginian*, or that of *Africa Proconsularis*, began, A. D. C C C X I V; and that of the Diocesis of *Africk* commenced not till the C C C X V Year of our Lord.

38. *Honorius* being so kind to the *Navicularii*, he might very well expect they should do their duty. But *Albinus*, the *Præfekt* of *Rome*, gave him to understand, about the middle of *September*, that they were wont to cheat the Publick, by withdrawing some of their Cargo; the quantity of Grain they brought into Port, not answering to the Bills of Lading. And now, at this time, the Crime was more prejudicial

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Dat. 5. 11.
Mat.L. 12. d. 3
tis. Cod. 7
L. 6. Cod.
cod. tit.
L. 11. d.
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a Cod. 1.L. ult. d.
restitutio
Cod. Th. l.
tit. 16. 6.
Cod. 14.
integrum
tutione.
prid. NovL. ult. 1
Cod. Th. 2
Cod. 14.
legitima
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gentiis
rum, Cod.
Dat. 3. N.
Abest a
Just. ut i
varia.

St. 3.
restrains
Avarice.

prejudicial to the City than ordinarily, which filled apace; so as in one day was found an Accession of fourteen thousand Mouths, and Provisions grew very scarce. The Emperor wrote back, that, He conceived the Officers of the *Præfect* of the City, and of the *Præfectus Annonæ*, were corrupted to dissemble such mis-carriages. To prevent this he gives him order, that although in former times the *Præfectus Annonæ*, and the *Vicar* of the *Præfect* of the City, had been wont to take care of these matters, especially, the former; yet now, he himself (as of late had been practised) together with the said *Præfectus Annonæ*, and three Illustrious Persons, shall make Inquisition into the thing, and that within five days after the coming of the *Navicularius* into Port; so that the Inquisition be not deferred, though it happen on Days holy, or destinated to Devotion. After this, a Criminal convicted, shall be sent, with his Prosecutor, and the matter of his Charge to the *Præfectus Annonæ* of *Africa*, as his proper Judge; who shall cause him to make satisfaction. If Inquisition and Prosecution be not made accordingly, the *Præfect* of the City, and his Office, shall forfeit five pounds of Gold, the *Apparitors* three, and the *Præfectus Annonæ* two.

A. D.

414.

L. 28. de Naviculariis, Cod.
Th. Dat. 15. Cal.
Octobris. An. 414.
Cod. Just.

assigns to
the Scho-
lar that com-
manded Sol-
diers.

39. There being, in these times of danger, so great need and want of good Officers, several out of the *Scholaræ*, as of the *Gentiles* and *Scutarii*, though not properly Soldiers, were preferred to the Command, even, of *Numeri*. or Regiments of Horse. And, now it became a Question, what Pay they should receive; concerning which, *Constantius*, *Magister Militum* in *Gall*, consulted the Emperor. He answered him, that, such of the *Scholares*, to whom, out of consideration of their Service, he had given the Command of *Numeri*, should receive from the *Opinatores* a *Solidus* a day, and, besides, that they called *Caballatio*, or Allowance for Horse, as the *Tribunes* of Horse at this time received. And, if they died, and had Arrears due to them, they should be transferred upon their Heirs, so much as was due to the time of their death; but not a whole year's Allowance, if they died within the year. He concludes the year with kindness to his *Domesticks* and *Protectors*, of whom, the next ten to the *Primicerius*; he signified to *Epiphanius*, the *Præfect* of the City, his pleasure, that, They should obtain the Dignity of Senators, and succeed in order, to be one of the ten as another went out; with such Privileges and Immunities as the *Senatores Allesti* had from the Senatorian Functions, or the *Glebalis Collatio*, and the *Pratorship*. It being not their Ambition, but their Merit, and his voluntary Determination, which thus preferred them.

L. 24. de Proga-
tion. militaris
Annonæ. C. 1. Th.
L. 1. Cod.
Just. Cod. Tit.
Dat. 17. Cal.
Dic.

ind to his
restrick
tions.

40. *Theodosius*, this year, came no whit short of his Uncle in Acts of Grace and Indulgence towards such as he found reason to be kind to. Much about the same time that *Honorius* passed that of Pardon to the *Navicularii*, of what was in Arrear for twenty years; he, as if he had a purpose to outdo him, published one of far larger extent, both as to time, place, and the thing forgiven: For, from the eleventh Indiction of *Valens*, till the fifth that was lately past; or, from the second Consulship of *Valentinian* and *Valens*, till the seventh Consulship of his Uncle *Honorius*, and the second of himself; that is, from the Year C C C L X V I I, to the Year C C C C V I, inclusive, being the space of forty years, he pardoned all Arrears in general; from whomsoever, to whomsoever of his Officers of Receipt, and in what kind soever they were payable, through all the Provinces of the East: whether due from the *Curia* or *Curiales*, who were wont to be *Susceptors* and *Exactors*; or from the *Possessors* of the Lands themselves, which were obnoxious to Payments to the Prince his Patrimony, his House (called *Divina Domus*) or to find Provisions (*Cellarienses*) for supply of *Palaces*, *Pratoria*, or *Mansions*: whether Corn or Money, Brass or Silver, were to be paid: whether owing to the *Horrea*, or Magazines, the *Arca* of the *Præfect*, or the two Treasuries. Excepted only out of this Pardon such Arrears as were owing from the Quarries of *Docimenum* (a place in *Phrygia*) *Proconnesus* (one of the Islands *Sporades*) and *Troas* (near Mount *Ida*, the famous place in *Asia Proconsularis*) which, by reason of the great need that this luxurious Age, found of those most noble Veins of Marble, he permitted to be exacted, as we guess, out of particular respect to *Constantinople*, to which City they were so near; for, in many other Provinces of the East also, especially, in *Illyricum*, there were many excellent Mines and Quarries. He adds another Limitation; that, From that, or the sixth Indiction, to the present, or twelfth, all Arrears shall be paid, to answer the publick Necessities. This Edict is directed to *Anthemius*; to whose District of the *Præfectship* of the East, we might think it designed, but that at the bottom of it is expressly said, that, concerning the same matter, an Edict was written to the People, to *Marcianus*, the *Comes S.*

L. 7. de Domestici-
cis & Protecto-
ribus, Cod. Th.
Lib. 5. tit. 24.
Dat. 6. Cal. Jan.

L. 9. de Indul-
gentiis Debita-
rum, Cod. Th. Dat.
5. Id. 1. r. Ab. p.
ut temporaria a
Cod. Just.

Larg.

Sect. 3. *Arg.* to *Musellius*, the *Præpositus Cubiculi* (under whom was the Oversight of the *Divina Domus*) to the Governors of Provinces in General, and in particular to Governors and the People which had relation to Mines and Quarries. From this it seems intended for the whole Eastern Empire: but however, we believe they had all reason to thank *Anthemius*.

41. And, not only Debtors to the Publick, for this; but Prisoners, and such as were condemned to Banishment, for another Law, which shortly followed in their behalf. When Offenders were sentenced to Banishment by the *Judges*, their Officials were to see the Sentence executed, and till such time the Parties were remanded to Prison. But oftentimes it happened through the Negligence, or wilful Omission of the *Officials*, sometimes of the *Judges* themselves; that, if a man was sentenced to Banishment for a Year, they would let him continue so long in Prison before they conveyed him to the appointed place. This being looked on as a great Oppression, an Edict was directed to *Anthemius*, commanding that, All such should be set at liberty, without any farther punishment, that had fulfilled the time that was appointed to Banishment, in Prison. And it gives this reason, that it is sufficient to have once undergone great Affliction; and that they that have been long deprived of the common Air and Light, and burthened with Irons, should not, again, be compelled to undergo the pain and penalty of Exile. We cannot say that another Act of kindness was to be attributed to *Anthemius*, for it is directed to *Monaxius*, under the Title of *Præfect* of the City; though all other Laws, both of this and the following Years, make him *Præfectus Prætorio*. Hereby he made them acquainted, that, Such as having served their full time, and discharged their duty, had attained to be *Proximi* of the *Scrinia*, *Comites Dispositionum*, or *Magistri Admissionum*, and thereby to the Degree and Dignity of *Vicars*, shall not only be free from all Functions, and the *Glebalis Collatio*, as his Father formerly had made them; but also, from the seven *Solidi*; which, not only *Senators* that were poor, but some others which were excused from the former Collation, were obliged to pay. If *Theodosius* was so good natured to his Servants, and studied to reward those that had well deserved of him, no wonder that he thought upon his own Sister *Pulcheria*; which Lady being solicitous and industrious for the safety of his Person, and the security of his Estate, to a degree far above her Age: he, this year, on the fourth day before the *Nones* of *July*, advanced to the sublime Degree and Dignity of *Augusta*.

42. In the Year CCCCXV, *Honorius Augustus*, now, the tenth time, and *Theodosius*, the sixth, received the Consular Ornaments, and made their Abode as formerly; the one at *Ravenna*, and the other at *Constantinople*. According to *Proper*, *Attalus* being carried by the *Goths* into *Spain*, was surprized, and delivered up into the hands of *Constantius*. *Orosius* something more largely saith, that, He took Ship, not knowing certainly how to steer his Course, was taken at Sea, delivered to *Constantius*, and then presented to the Emperor; who commanded his hand to be cut off, but spared his life; a Sentence full of mildness toward such an Usurper. The *Vandals*, who had formerly invaded *Spain*, grudged that the *Goths* should share with them; and imagining, the Alliance betwixt the Emperor and their King considered, that they should have them their Enemies, resolved, if possible, to prevent it, by sending to *Honorius*, and offering to fight against them. The Messengers advised him, in short, to have Peace with them all, to let them fight it out amongst themselves. They might perish, but he should win: and, if both Nations perished, the advantage of the Empire would be immortal. Indeed, *Procopius* writes, that *Honorius* agreed with *Gunderich*, their King, that the *Vandals* should fix in *Spain*, provided they abstained from all violent and unjust Acts, and would not make use of the Prescription of thirty years against the *Romans*. But, however, *Placidia*, his Sister, took it to heart, that there should be such Enmity betwixt her Brother and her Husband; with whom she often contended, that *Attalus* was to be delivered up, and a good Understanding to be thereby procured. This she could not then obtain; but, when she understood that *Attalus* was seized, and delivered up, she then resolved to make advantage thereof, and pursue so good an opportunity. Neither, indeed, was *Ataulf* averse, being sufficiently Uxorious, but readily condescended to what was so justly desired by his Wife. But it cost him dear; for, his *Goths* being quite of a contrary Inclination, when they saw he resolved upon a Peace, which they thought contrary to their Interest and Honour, they murdered him at *Barcellona*, and, with him, six Sons; as his Epitaph shews, which was found in that City, and exemplified by *Ambrosius Moralis*, in his *Spanish Chronicle*.

A. 1

41

L. 12. de
Cod. Th. c.
Cod. Just.
tit. Dat. 1
Maii.L. 12. de
rib. Cod.
6. Id. Ma

A.

41

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Gothis
Atta
vide C
um Go
in N. T.
JuniiAttalus is deli-
vered up.Ataulf mur-
dered.

3. nicle. Having made an end of him, they promoted one *Sigerich* to be King in his stead.

A. D.

415.

43. At the very beginning of the year, *Honorius* was presented with heavy Complaints out of the Islands, and all the Coasts of *Dalmatia*, against the *Curiosi* of those Quarters. We have seen how, through these Parts, had lyen the passage out of the Eastern, into the Western Empire; and how all mischief had here, had its entrance out of *Epirus*, *Pannonia*, and other Parts where *Alarich* and the *Goths* so long had raged according to the extent of their own Lusts. For this cause were they the more carefully looked to; and *Curiosi* were appointed to observe them, for the defence of the Provincials, that no Enemy should make any IncurSION: but the Remedy proved worse than the Disease: for, great were their Exactions, and so heavy and enormous their Oppressions, that, whereas in times of danger, when the Enemy invaded, the poor people were glad to fly for shelter into the Islands; they found there so ill Entertainment, that Shipwreck it self would have been little less acceptable; and not daring to commit their Estates and Persons into the hands of these uncertain Friends, they chose rather to abide the Insults of a known Enemy. This caused the Emperor to signify to *Palladius*, the *Præfictus Prætorio* of *Italy*, that, For the publick security these Officers should be removed wholly from those Parts, as he had, the year before, removed them out of *Africa* for the like reason. And if, for the time to come, any should dare to usurp the Name or Employment after warning given, he should, by the care of the Judges, be sent up in Chains to Court, to receive punishment according to the merits of his Cause.

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44. About this time *Palladius* went out of his Office, and was succeeded by *Seleucus*, as it should seem; to whom, toward the latter end of this Month, a Constitution was directed about that often attempted, and never perfected Work of filling up the *Curie* with sufficient Members. So urgent were the reasons for it at present, that they put *Honorius* upon a new Course, contrary to former Law and Custom, except in some extraordinary Cases. This was to oblige all that were born of a free Woman, and such as whose Parents were obnoxious to the Services of Corporations, to follow the condition of their Ancestors by the Mother's side, though their Fathers were no better than Slaves; though *Actors*, or *Procurators* of great Persons. This ran expressly cross to the Authority of the *Senatus-Consultum Claudianum*; whereby any Free Woman that joyned her self to a Slave, became, by that means, the *Ancilla*, or Slave, of his Lord, with whom she had so unequally yoked her self; and, not only she, but such Children as she bore in that condition. But *Honorius*, though otherwise confirming that *Senatus-Consultum*, yet, now was of the opinion, that the indecent Act of the Mother was not so much to be looked at, as the Original of the Son, and the Dignity of his Progenitors; thereby preferring a native and natural respect, before a merely Civil. And he argued from the very thing ordained by that *Senatus-Consultum*; that if, by vertue thereof private persons might challenge such as were born of their Slaves, though by free Women, by reason of their interest in their said Slaves; then might the Commonwealth, or the Court, with as much equity, lay claim to those that were born, or proceeded from such as were of their own Bodies. In conclusion, he will have forced back to the Courts and Colleges of Towns and Cities, all *Vacantes*, or belonging to no Societies; all that had betaken themselves to any *Militia*; imposeth a Fine of five pounds of Gold upon any that shall hinder the returning of any *Curialis*, and no less than burning alive upon any Slave that is an *Actor* or *Procurator*.

L. L. 172. 179.
de Decurionib.
Cod. Th. Tit. 13.
Cod. Fidei. Tit. 4.
Cod. Just. Tit. 1.
Tit. 1.

45. *Theodosius*, in the East, was also presented, at the beginning of the year, with Complaints against the Insolence and Violence of Officers; which was risen to that height, as even to force Gifts, Bargains and Sales from the poor Provincials. We have seen how careful Princes have been to avoid this mischief; insomuch, that they made it unlawful for Governors of Provinces to receive any thing, or to marry therein, during their Administration. Whether the Complaint was against them, or occasion was given by others who were potent by reason of their Factions or Estates, or had many Clients and Dependants (to prevent the Rapacity of whom, *Honorius*, as we have seen, would not permit such to exercise Merchandize:) but *Theodosius* now, by an Edict, declared to the people, that, All Sales, Gifts, and Transactions which were extorted by power, should be void, and of none effect. It is no Incongruity to imagine, that the Rapacity and Violence of the *Cohortales* or Officers of the *Judges* gave especial Provocation to the making of this Law.

indlers pro-
de against
e Rapacity
Officers.

L. ult. de Contra-
hend. Empt. Tit.
Cod. Th. Tit. 1.
Tit. 1. Cod. Just. Tit.
Tit. 1. Cod. Just. Tit.
Tit. 1. Cod. Just. Tit.
Tit. 1. Cod. Just. Tit.

Sect. 3. For, this very day we find another Edict directed to *Anthemius*; which makes a show, as if some of them had been turned out of their places for such Enormities: It ordains, that, In case any Provincial Apparitor be turned out for any Crime, that he continue out of Employment: or, if he think and endeavour to come in again by petitioning the Emperor, he shall not be readmitted, except the Rescript be first offered to the Prince, or his Successors, and considered of by them. Which Sanction he commands him to publish by his Edicts, to give notice to all Governors of Provinces. When they were justly put out of their places for their Excess, they were wont, by Complaint, or some Clandestine Petition, by means of some Friends, to abuse the Prince, and recover their Employments; to the great detriment of the people, and the disparagement of those that put them out. To prevent this, he will have his own Rescript for Readmission scanned by *Anthemius*; which was, indeed, as *Gothofred* observes, a great Honour to him; and a Favour, which, by his great care and vigilance for him and his Affairs, he had well deserved. But, as the Letter of the Law doth not make it any personal Honour, but to belong to his Place or Seat; so we find, that, about this time, *Anthemius* got leave to take his ease, and lay down, if not the whole care of the State, yet, the weighty and burthenfome Office of *Præfectus Prætorio*; this being the last Edict we find directed to him under that, or any other Character.

Anthemius lay-
eth down.

Aurelianus suc-
ceeds him.

Who procures
some Acts of
Grace and In-
dulgence.

46. For, immediately after, we find *Aurelianus* promoted to be *Præfect* the second time, and that, of the East, as may be gathered from the many Laws directed to him; who, to this Office of *Præfect*, had the Honour of *Patrician* shortly after added. The first Edict inscribed to him declares a Receiver to be as bad as a Thief, upon occasion of some Ecclesiasticks, who received and concealed things due to the Treasury. And, by his Circumspection, was discovered, that the Provincials made not near so much advantage of that Act of Grace for pardoning the Arrears of forty years, as was expected. For, the Courts of several Cities pretended they had paid before hand many Sums of Money for the Possessors of Lands (as, indeed, sometimes they were wont to do) which they doubted not but to come upon them for, and be repayed, which, as yet, they were not; and therefore, now they sued their pretended Debtors. Hereupon was an Edict drawn up, and directed to him, wherein the Emperor takes notice, that, That Indulgence which he had generally dispersed throughout all Provinces and People, some seemed so to convert unto their private profit and rapine, that those that were formerly publick, were now become private Debts. Therefore, that the Provincials may experiment his bounty, not in word only, but in reality, he commands, that, under pretence of anticipated Payment, nothing farther be exacted by any Corporation; forasmuch as they have sufficient amends made them by the benefit they themselves receive by that Indulgence, which they endeavour to violate with a Sacrilegious mind. In another matter, shortly after, he procured a Constitution to be drawn, partly to himself, and partly to the *Comites* and *Magistri Militum*, in behalf of poor Tenants and Possessors, whom the Soldiers oppressed by eating up their Grass and Meadows. Therein is declared, that no Possessors contribute more to the Publick, than what the Emperor commands to be paid by disposition of the *Præfect* yearly; and that the Soldiers shall be content with what his bounty allows them. The *Comites* and *Magistri Militum*, under whom were the *Duces*, *Tribunes* and *Præpositi*, he enjoins to let all concerned persons understand, that the Soldiers must not eat up the Grounds of the Provincials, and that a Law was gone out to the *Præfect* for this purpose; to whom he gives in the Inscription the first time, the Title of *Patritian*.

47. But, though the Direction runs thus, To *Aurelianus*, *Præfectus Prætorio* and *Patritian*, we cannot be of *Gothofred's* opinion; who, in his Notes upon the Law, makes the Dignity of *Patritian* consequent of the other. For, the *Patritians* were a select number chosen by the Prince, out of such of the Nobility as he pleased; to whom he gave the Appellation of Fathers. Neither do we find it but very seldom in the Inscriptions of the Laws given to any; so little probability there is, that it belonged to all *Præfects*, or to *Magistri Militum*, as such; who, at this time, were many in number; several, sometimes, of the same place, in the same year: so that we are constrained, now and then, even to imagine that there were more than one *Præfect* at the same time, over the same District. More true is that Observation concerning the *Præfects* of the Cities, that they were named, and had Precedence before the *Præfecti Prætorio*, as in the Senate, the City, and the *Urbicarian* Regions, it was fit they should. For, we find another Law on the last day of *October*, inscribed

A.
41

L. 26. de
t. alibus, C.
de L. 11. C.
Just. eod.

Indultum
jessatis n
Oraculum
plissime t
di offeas
gandum.

L. ult. de
ne penul
Cod. Th. &
Cod. Just.
hinc de
Dat. 3. No
Mart.

L. 10. de
gentis D
rum, Cod.
Dat. 5. li
Abest a
Just. ut tu
varia.

L. 4. 5. 1
Præis, Co.
de L. ult. 1
Just. eod. 1
Dat. Non. S
temb.

Patritii D.
tas sequela
rim.

et. 3. inscribed to *Ursus*, *Præfect* of the City ; *Aurelian*, *Præfectus Prætorio* of the East ; and *Strategius*, *Præfectus Prætorio* of *Illyricum*, concerning the *Decuriones* of the Palace. These were a sort of dignified Officers within the Court ; who, being ordinarily three in number, presided over thirty *Silentiarii*, of whom we have spoken formerly, were wont to be sent by the Emperors, upon extraordinary occasions, to suppress Insurrections ; and when he or the Empress were in their Progress, governed the Cavalcade, or manner of travelling. Now, *Theodosius* lets these three great Ministers know, When these persons shall have served their time, they shall have place amongst the *Exduces*, as if they had been in that Actual Employment ; have the privileges of adoring the Prince, saluting the Judges, or others belonging to that Honour. Moreover, in the Senate they shall be accounted as *Allecti* or *Immunes* from Senatorian Burthens ; particularly, that of the *Glebalis Collatio*.

48. The year of our Lord, C C C C X V I, had for *Consuls*, *Theodosius Augustus* the seventh time, and *Palladius* ; whom we find by many Laws of this same year, to have been also *Præfectus Prætorio*, as *Ursus* was *Præfect* of *Constantinople*. The *Goths*, in *Spain*, thought that *Sigerich*, their newly promoted King, had been a Man for their turn ; but he was also inclined to Peace : and, for that reason they dispatched him after *Attaulfe*, and advanced into his place one *Valia*, whom some make the Son of *Attaulfe*. *Vallia* is said to have attempted to execute the design of *Attaulfe*, of invading *Africa*. He got all things ready for his passage at the Straits of *Gades*, and there took Ship ; but was siezed with so great a Tempest, that, after many Vessels lost, he was forced to return ; and then, calling to mind the ill success of *Alarich*, in his Attempt upon *Sicily*, he gave over the Enterprize, and betook himself to *Constantius*, who was entering *Spain* with an Army against him. He went to the *Pyrenean* Mountains to meet him ; and, before they met, sent Messengers to him, by which he offered to restore *Placidia*, the Emperor's Sister, and to give Hostages for his peaceable demeanour ; provided he might have leave with his people, to fix in *Spain* ; and, for his security, receive some of the *Gallick* Nobility as Hostages. *Philostorgius* writes, that *Placidia* was restored, and *Attaulus* given up at the same time by the *Goths* ; who, in way of recompence, received Provisions from the *Romans*, and a portion of *Gall* to inhabit. Others indeed, write, that *Attaulfe*, when he was dying, commanded that *Placidia* should be restored, and that six hundred thousand *Modii* of Corn were sent to *Valia*, King of the *Goths* ; whereas a Supply had been promised formerly to *Attaulfe*, and he made the Non-payment thereof a pretence why he did not restore *Placidia*. Great need there was indeed, that he should make an excuse for not giving up his own Wife. As for the *Goths*, their receiving part of *Gall* to inhabit ; that must have been some time after.

49. *Constantius*, no doubt, was welcome to *Honorius*, as well for his own sake, as the Lady's whom he presented : but this was not till toward the latter end of the year. At the very beginning thereof, the Emperor was put upon thoughts how to maintain those Wars which he saw there was no probability to avoid. Besides the ordinary Indiction of the usual Payments, he had been forced to lay a *Superindictum*, or some Over-charge upon the Provinces. This was no new thing, but sometimes happened when the necessity of Affairs required : but, some there were, who being ordinarily excused by Privileges, from extraordinary and sordid Payments and Services, now refused to contribute to this Over charge ; as being in the number, and of the nature of Extraordinaries. So it had happened in the Reign of *Constantius* ; the Example of whom *Honorius* now was constrained to follow, by mollifying and taking away the harshness of the word, Calling it a *Superindictum*, and a Canonical Payment : and commanding it should not be looked upon as an Extraordinary ; so as all Houses should be subject to it, and no Privileges be admitted ; whether they belonged to his own Patrimony, were held in perpetual Right, or appertained to private Persons. He had intelligence, shortly after, from *Constantius*, out of *Gall* ; that, upon the *Goths* quitting that Country, there were risen amongst the Natives heavy Suits and Contentions. For, when the *Barbarians* invaded the Provinces with Fire and Sword, some fled their Countries ; but others met together, as they could, in Companies, and lived as well as they might in Bodies, like *Banditti*, or *Tories* ; falling down, as they could, into the adjacent places, and making bold with what they found for mere subsistence, although it belonged to their own Friends and Countrymen. This was practised upon such occasions, both in *Gall* and *Spain* ; and these Assemblies were called *Bagaude*, which was a Name given from the times of *Dioclesian*, to such Companies of poor miserable

Sect. 3.

Passes an Act
of Oblivion
for Gall.

able Country People as got and united together, sometimes driven to that extremity by the cruelty and oppression of the Judges. Now *Honorius* taking into consideration the late distressed condition of the *Gallick* Provinces, and of what force necessity is, when life itself lies at stake, thought fit to make an Act of Oblivion for such injuries done upon the Barbarick Depopulation, as he terms it. And he directed a Rescript to *Constantius* with the Titles of *Comes* and *Patritian*, whereby all Processes in such cases were ordered to be stopped, and no challenge to be made for any thing so taken away, except the thing so taken could be proved still in being amongst his Goods that took the Booty, or that person that was sued.

A. D.

416.

L. 14. de Infir-
his que sunt
rannis, Cod. Th.
Dat. Cal. Mart.
Abest a Cod. J.
ut temporaria.

Prohibits re-
petition of
Offices.

50. The great Ambition and Avarice of Officers was now taken notice of; they were no sooner out of a profitable Employment, but they would labour and make shifts to get in again. The Roman Government was ever jealous of long continued power in persons that had jurisdiction, and not only during the Commonwealth, which would have her Officers annual; but since the Monarchy and perpetual Dictatorship. For Princes, though their own Authority was not circumscribed with any narrower Bounds than those of a natural life, yet they would not permit Provincial Magistrates to be long in Office. The reason was, lest they should have too much opportunity by acquaintance and interest, to make disturbances; or by too well understanding their Trade, to make greater advantage of their places, than the Good and Commodity of the Provincials would bear. And yet a Magistrate may have too little time to be thoroughly acquainted with the state of his Province, if it be large. It is true, the Concernments of a particular City, Town or Place may be soon discovered: but those of a large District, a Diocese or Jurisdiction wherein must be great variety of Interests and Humours, could not so quickly be discerned. A sense of this caused the ancient Romans to continue a power over a Province to him, as *Proconsul*, the second year, to whom as *Consul* it had been committed the precedent. However, as they that are upon the place can see more than those at a distance; and experience is not at all to be run down by arguments; the Emperors, though they might make use of their power to dispense with the custom when and where they saw convenient, yet kept up to the Maxim of having the term of an Administration but short; and when once it was at an end, of not having it again renewed. But at this time the Rule was much broken, not only some persons being by the Prince his knowledge and provision suffered to reassume their Offices, but others creeping in again by sinister courses. To put a stop to which, *Honorius* now declared in an Edict to *Palladius*, the *Præfect*, that if any should endeavour to renew his power of *Proconsul*, of *Vicar*, *Consularis*, *President*, of *Comes Discussionum*, or *Auditor*, or of *Princeps* of an Office, his whole Estate should be confiscate. Now this is understood to be meant of the same individual Office; not that a Man might not be *Proconsul*, *Vicar*, *Consularis* or the like, in another Country.

L. ult. ad legem
Juliam de Au-
bitu, Cod. Th.
Dat. Id. Mart.
Abest a Cod.
Just.

Wearied with
clamours of
the Curia, he
calls back their
Members.

51. He was now more brisk than ever with such *Curiales* as had left their stations; that complaint which was never wanting to disturb his Ears; If any such could be light on by those of the Body, he gave them free leave, in case the Governour of the Province were not at hand, to lay hold on him, and carry him before the Magistrate, who under pain of ten pounds of Gold to be paid by him, and as much by his Office, was to finish the process, and give sentence for, or against him (that he was bound to the Duties of the *Curia*) within three Months. This for the time to come. And in reference to what was past, if any had betaken himself to any *Militia* or Office, he should substitute and maintain a sufficient Deputy in his room, otherwise be forced back himself, though he served in the Army; for which purpose he gives *Palladius* directions, that Letters be written to the illustrious the *Magistri Militum*. At this time he also restrained the charge and trouble of unnecessary reporting causes to himself, declaring to *Palladius*, that no suggestion or relation should be made to him by complaint of one of the parties only. For this was to renounce the method and course of Law; and when report was to be made to the Prince, both *Plaintiff* and *Defendant* were to have Copies thereof delivered to them, and there to make their objections or additions as they saw convenient; an offender in this point he will therefore have condemned, as to costs, and lose his cause. This he also gave in charge to *Palladius*; and being overcome with greater clamours of the *Curia*, he farther gave him order in this same Constitution, without any condition or mention of any Substitute or Deputy, about four Months after the other Law, to call back to their Courts whatever *Curialis* was in the Army, amongst the Attendants of the *Præfectus Prætorio*, or in any *Palatine* Offices or Services.

L. 18. de Di-
curionib. Cod.
Th. & L. 54. Cod.
Just. eod. tit.
hinc desumpta
Dat. 5. Non.
Mai.

L. ult. de Re-
tionib. Cod. Th.
Dat. 5. Id.
Septemb.
Nunquam ad
unius litigati-
ris querimoniam
nostros Al-
ribus suggestis
offeratur, &c.
L. 147. de Di-
curionib. Cod. Th.
Abest a Cod.
Just.

52. This

ect. 3. 52. This may be said of those Imperial Laws which are now extant, that the general tendency of them is to answer Complaints, and remove Grievances, and not either to enhance the Revenue, or heighten the severity of the Government; though had there been more such, we should have had them in *Theodosius* his Code. Yet in absolute Monarchies, where the Princes raise what Money they please, and their bare Edicts have the force of Laws, they are wont to have few about them that plead for the poor People, and make known their Complaints; the more usual course is to put them upon extravagancies; to cry out, that the People are too rich, that this will make them rebellious, and therefore they are to be not only clipped, or sheared, but scraped, that some of the Wool may fall to their own shares. Yet the Body of the Civil Laws convince us of another fashion at Court in those days, though the times were otherwise very bad. The Emperour was now again informed, that such Officers as were sent into the Provinces to exact or raise Tributes, were wont to stay there a long time, under various pretexts, but with design to abuse the People. He commands *Palladius* in order to prevent it, that what Officer soever, from what Magistrate soever he be sent, to raise what Revenue soever, shall within the term of a year return with his Accounts unto the Judge; wherein he shall make known what hath been exacted by his diligence, how much remains in arrear, in whose hands, and by whose fault or procurement it is still unraised in the Province. If after that a year be expired, this *Robber*, as he calls him, stick still in the Bowels of the Country; he shall be turned out of his place, and the chief of that Office of which he was member, shall fine in ten pounds of Gold. And if he refuse to depart, he shall be sent up in Chains by the *Apparitors* of the Provincial Judge, together with his Accusation; and it shall not do him any service to urge, that he was put upon some other Business or Employment; it being unlawful to be *Exactor* twice together in the same Province. By this care he took to restrain those oppressions, *Honorius* could not but ingratiate himself with the Countrymen in the Provinces, and at a distance from *Rome*. But whether he did not quite lose the favour of the Inhabitants of that City, and forfeit all that affection which his other Edicts had procured, by the last Law he made this year, we cannot but question. How dear both the Fashions and Persons of the *Goths* and *Barbarians* were to the people at this time, we have already said. Nothing so ingenious and gay as what they wore; none so witty and *adroit* as the servants that could be procured out of these Nations; a ridiculous (but usual) sign of impendent slavery from these *Barbarians*, after whom they ran a madding. Once more *Honorius* resolved to attempt to stop the humour by a third Law directed to *Probianus Prefect* of the City, whereby he forbade long Hair, and Cloaths made of Skins to be worn in the City, so much as by Slaves. If a Free Man should do it, he should incur a Mulct, and if a Slave be condemned to some publick Drudgery. Concerning Skins we have seen already sufficiently out of *Claudian*, that they were the Wear of the *Goths*. And as for long Hair, they who are any whit conversant in the Antiquities of the *Franks* and other Northern Nations, know it was esteemed a great (nay, a Royal) Ornament; contrary to the opinion of the *Romans*.

ill labours and
most Oppres-
sions.

thits Go-
Fashions.

dosius vex-
with the
ntes in Re-
makes va-
s Laws a-
it them,

53. *Theodosius* at the beginning of this Year had some trouble given him about the *Schole* or Company of *Agentes in rebus*, which stood in great need of purging. For it was now made (however it came to pass) the *Asylum* and Refuge of lewd and idle persons; culpable as to their lives, and ignoble as to their original, even such as were sprung from the very dregs of Slavery. The Year before, the matter had been under consideration, and the Emperour had referred it to *Helio*, the *Magister Officiorum* to make Inquisition after Offenders of this sort, and remove them: but whether he thought it not then seasonable, or rather too invidious a thing for him to undertake, considering the great power of some of the *Agentes*, and the animosity which was seldom wanting to them, *Theodosius* then approved of his remitting the cause, so as though the *Magister Officiorum* might visit the *Schole*, yet none should have power of turning out, or disbanding, without his own especial order and authority. This by an Edict he then judged most agreeable to the Dignity of the Company; but now this Year being wearied out, as it seems, with Complaints, and either not willing to be troubled himself, or desirous to make short work of what he knew was not to be excused, he returned back the whole power to *Helio*, both of visiting the *Schole*, and examining and turning out as he should think convenient; so as by removing all evil members, the Society might recover its former esteem, and be

A. D.

416.

L. 9. de Exactoribus
L. 1. Cod. Tit. 5.
L. 3. Cod. Just.
Cod. Tit. Dat. 10.
Cai. Oclor.

Ipsa satellitibus
pilleis Roma
patebat,
Et captiva pri-
us quam cape-
retur, erat.
Rutilius, qui
hoc vel proximo
aquo scribat.
L. ult. de Habitibus
quo uti oportet
intra urbem,
Cod. Tit. Dat.
Ibid. Id. de Amba-
basi a Cod.
Just. ut localis
& temporaria

L. 17. de Agen-
tibus in rebus,
Cod. Tit. 1. 2.
Cod. Just. cod.
tit.
L. 18. epul. tit.
Abest a Cod.

filled

Sect. 3. filled with a company of honest Men. This was thought the best course, and most suitable to this time; but when one of these Edicts being contrary to another, was afterward to be taken into *Justinian's* Code for standing Law, he not so vexed or provoked, as now *Theodosius* was, made choice of the former; not thinking fit without the Prince his special Warrant, to give any such large power to the *Magister Officiorum*.

A. D.
416.

He refuseth to
be made Heir
by virtue of a
Nuncupative
Will.

And other-
wise.

Reforms the
House, as to
Bread, at Con-
stantinople.

He explains
his former Act
of Grace.

54. *Theodosius* setting himself to reform matters belonging to other persons, resolved not to omit such as wherein he himself was concerned. As there never wanted those who would flatter the Emperors being possessed of so great power, especially such of them as too much indulged the cruelty and rapacity of their Natures; so in nothing was it more ordinary to shew this flattery, than in Wills or Testaments. Indeed *Augustus*, *Tiberius*, and *Adrian* refused to receive any thing from the Testament of an unknown person, though ordinarily it might be done. But *Domitian* seized on all Estates whatsoever, if any one Man would but step forth, and say, that he heard the deceased say before his death, that he had made *Cæsar* his Heir; and accordingly as Princes were inclined, they either took or refused. Now *Theodosius* considering how little credit was to be given to such Witnesses as would desire to ingratiate themselves, resolved even to deprive himself and great persons of that Benefit, which to others was allowed. For whereas ordinarily a Nuncupative Will was of force, if attested by a sufficient number of Witnesses, so as to null and repeal a written one; yet if he himself, or any of the Grandees were thereby made Heirs, he resolved it should not be of force to repeal what was written, and perfectly good in Law; because perhaps the Witnesses might say, that *They heard the Party, when he was dying, name the Emperor, or some great Man his Heir.* *Pertinax* the Emperor refused to receive any thing from the flattery or boasting of dead persons; and in such cases admitted the claims and complaints of the Kindred against these Testaments, which indeed ought to have been null in themselves. But *Theodosius* would not have even authentick Testaments to take place where he and the Nobility were concerned, against the Heirs which were named by writing: such an instance of self-denial, as his Grandfather gave in that Law, whereby he refused to receive any thing by *Codicils* and *Fidei commissa*. But *Justinian* afterward thought this opinion of *Theodosius* the younger too scrupulous and unnecessary; making the condition of the Emperor as not better, so not worse than that of Subjects in these cases. However, *Theodosius* was so free and hearty in what he did, that he directed his Edict to the People of the City of *Constantinople*, and all *Provincials*.

55. About the same time he observed, how that Provision which *Constantine* the Great had made for the City of *Constantinople*, and his Grandfather had enlarged, did not reach the ends so fully as they designed it. For the People receiving it in Corn, many applyed this Corn to other uses, possibly some idle Spendthrifts might sell it, and their Families never fare the better for it. He resolved therefore to alter the former course, and by a Law directed to *Ursus* the *Præfect*, commanded, that for the future, no Corn should be given to any, no not to the *Palatines* of his own House, who were wont to receive this allowance amongst others. But that the whole and entire Canon should be delivered into the hands of the publick Bakers, who, thereof should make Bread to be distributed to the several Houses; after which manner he saith, the allowance given by *Constantine*, of famous memory, and enlarged by *Divus* the Grandfather of his *Piety*, ought to be expended. Till about the latter end of *July* he continued at *Constantinople*, but then removed to *Eudoxiopolis*, where he continued the Month of *August*; and in the beginning of *September* extended his Progress to *Heraclea*. Here he thought fit to explain a Law; either that we mentioned which he made two years before, or some latter, concerning Indulgence and Pardon of what was remaining due of publick Payments. It was a question whether the Arrears of the Provisions and Necessaries for the Army were to be understood thereby, as well as other Charges, because none from the payment of them were wont to be excused. But he declares to *Monaxius*, that all his Subjects whom he had indulged with a Discharge of the rest should also partake of this Benefit: the Miners of *Docimenum*, *Proconnesus* and *Troas* only excepted, as they had been before out of the general Act. By the end of *September* he returned to *Constantinople*, and there continued the remaining part of the Year.

56. The Consuls of the following, or the CCCCXVII of our Lord, were *Honorius Augustus* the eleventh time, and *Constantius* the second. *Honorius* had

his

L. 1. de Test.
mentis, Theod.
Theod. 1. 2. 2.
Justinian. 1. 1.
Dat. 14. 11
Mart.

L. 2. de p. uat.
urbis. Constan-
tinop. Cod. 1.
14. tit. 1. 2.
L. 1. Cod. 1. 2.
Cod. 1. 1. 2. 10
Cal. Aug.

L. 1. de leg.
geniis Justinian.
rum. Cod. 1.
Dat. 5. 1. 1. 2.
temb. Av. 1. 2.
Cod. 1. 1. 2. 10
temporaria

A. D.
417.
Honorio 11.
Constantio 2.
Cess.

his Abode at *Ravenna*, and *Theodosius* at *Constantinople*. *Constantius*, the same day that he entred the *Consulship*, by the consent and encouragement of *Honorius*, married his Sister *Placidia*, the Widdow of *Attaulfe*. And now *Honorius*, as some write, entred *Rome* in Triumph, for his Victory obtained over the *Goths* and *Attalus*, who was led before the Chariot with his hands bound behind him; and, the Solemnity being over, had his Right Hand cut off for his perfidious dealing; and, possibly, in return for what he is said to have offered to the Emperor; and was confined to *Lipara*. Concerning *Honorius* his being at *Rome* this year the Laws are silent, not one bearing date from that City; and yet, there are some extant, which mention no other place than *Ravenna*. *Vallia*, the King of the *Goths* in *Spain*, as well to employ and enrich his Men, as to gratifie the *Roman* Emperor, made War against the *Vandals* and *Alans* in that Country, and that with great success, if we may believe *Sidonius Apollinaris*; who, speaking of *Ricimer*, the Nephew, or Grandson, of *Vallia*, recounts what his Grandfather did in the Territories of *Tartessus*, against both these Nations; as also, in the Fields of *Agrigentum*: and he compares his Acts with the famous Exploits of *Marcellus* and *Metellus*. *Isidore*, in his *Chronicon*, writes, that, being called by *Constantius*, into *Spain*, he made great slaughter of the *Barbarians* there, to promote the *Roman* Interest; that, in *Barica*, he utterly destroyed those called *Vandali Silingi*; and so broke and distressed the *Alarii* (or *Alani*) who domineered over the *Vandals* and *Suevi*: that *Ataces*, their King, being slain, those few of them that remained, forgetting now the name of any Kingdom of their own, put themselves under the Government of *Gunderich*, King of the *Vandals*; who had placed themselves in *Gallicia*.

57. *Honorius* not being this year disturbed with any War, had the more leisure to attend such Complaints as were made concerning Grievances and Misdemeanors committed in time of Peace. And whence should these come, but out of *Africa*? So loud and importunate he received concerning the inequality of Taxes, and burthens lying upon Lands, that he was constrained to send away one *Sebastius*, as his general *Peraquator* and *Inspector*, with Title of *Comes* of the first Rank; a person of such repute for his Integrity with him, that he gives him the Commendation of "*Probatissimus*"; Forbids that any other *Inspector* be sent, to undo what he had once done; gives him leave, however, to remove what had been done by others before him: and, whereas he was to examine matters relating to the Lands called "*Emphyteuticarii*", which properly belonged to his own *Res Privata*, and so were under the Jurisdiction of that *Comes*, or *Treasurer*, yet he will not have the *Treasurer* meddle with them at this time; but the Possessors of them shall be relieved as others, by *Sebastius*, in pursuance to several Instructions given him, and now divided into several Laws. These Instructions in general import that he should inspect and consider the several Lands complained of; and make such an equal distribution of the Charges and Impositions, according to the nature and quality of the Grounds, as might best provide for the publick Revenue; and also, give relief to the Tenants and Possessors, by due and just remedies."

58. But, the main matter which gave this trouble was, that there were many Grounds in this Country so much harrassed by War, that they were deserted, as barren and useless, and could not pay that *Census* which, in former times, had been imposed upon them. In case these Lands were in the hands of such persons as had plenty of others which were rich and fertile, he was to consider whether the whole Patrimony, being taken together, and the barren ones added by way of *Epibole*, to the Fertile, any thing was to be detracted from the usual Payment, for all. If the unfruitful and deserted were in the hands of poor Men, or those of mean condition, then, to be sure, they should be relieved. But, in case they were in no Man's possession, but wholly deserted, then should they be let over to new Owners, who should thenceforth hold them without disturbance, and without being obnoxious to Payments formerly due to the Soil, except within two months the former came in, and proved their Claim. Moreover, these new Possessors should not pay any *Glebalis Collatio*, though formerly the Lands belonged unto Senators. But, if they had been subject to the Naval Function, as appertaining to the *Navicularii*, he will by no means have them freed from it. Nay, further, so great care he shews for keeping up the Duties of that Body, out of respect to Navigation and Provisions; that such Grounds as had belonged to it, and thence were subject to such Services, though they had been sold by the publick Treasury within the space of twenty years; yet will he have them drawn back, and reunited to that Charge. So full of equity and forecast was now *Honorius*, for the ease of his people

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 C. D. P. 1. p. 180.
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 L. 7. de Locatio-
 ni Fund. Jar.
 " Emphit. Cod. Th.
 " L. 1. 4. 15. 16.
 " de Crustoribus,
 Cod. Th.
 " L. 9. de præditi-
 " Navicular. &
 " L. 13. de Senato-
 " ribus, Dat. præd.
 " Id. Maii.

t. 3. vinces by any but the *Duces* of the Limits, and their Officials : and, when any Magistrate was to exhibit them in their Games, they could not obtain them but by the leave and munificence of the Emperor, and his Letters. Indeed, it was lawful to kill Lyons, or other sorts of Beasts, when the safety of the Provincials required it ; and so *Honorius* declared three years ago, that the security of the Subject was to be preferred before his own Pastimes. In an Edict inscribed to *Maurianus*, then *Comes Domesticonum*, and *Vice-Agent*, or Deputy of the *Magister Militum* in *Africk*.

61. For, in that Country was plenty of Lyons, Leopards and Panthers (as at this day) which it was formerly unlawful to hunt and take ; though, as for Bears, it was free, in these times, for any one there to do it. And, in the Tracts about *Euphrates* and *Mesopotamia* they also abounded, to the great terror and detriment of the Inhabitants ; if it had not been for the great Swarms of Flies and Gnats, which fell upon the eyes of the Lyons, allured by their splendor ; and put them to such pain, that, with their paws, they endeavoured to remove them, and thereby pulled out their own eyes, as the Reader may remember out of *Ammianus*. Now, out of these Regions the *Duces* of the Limits were wont to send up these Beasts to the Court at *Constantinople*, to be baited there, as the Emperors had occasion to make these Shews ; and the Cities, through which they passed, were obliged by Law, or by Custom, to defray the Charges of them, and the *Officials* of the *Duces*, who conveyed them. But, in any City they were not to continue above seven or eight days at the most : which term was indulged, because often in Winter they could not conveniently travel. This seven or eight days, they of the Province *Euphratensis* changed into three or four Months, and all the while exacted what Money they could for finding of the Beasts ; particularly, in the City *Heliopolis*. This now, by another Branch of the same Constitution, *Theodosius* declares to *Monaxius* to be contrary to the Custom ; and commands, that Those that are sent up to Court “ by all the *Duces* of the Limits, shall stay in the Cities no longer than seven days at farthest, upon pain of a Fine of five pounds of Gold, to be incurred by the *Duces* “ and their Officers. “

62. The CCCCXVIII Year of Christ succeeds ; wherein *Honorius Augustus* the twelfth, and *Theodosius Augustus* the eighth time were *Consuls*. The former made his abode all the year at *Ravenna*, and the latter at *Constantinople*. This year, on the third of *July*, *Placidia*, the Emperor's Sister, and Wife of *Constantius*, was, at *Ravenna*, brought to bed of a Son, who was called *Valentinian*, and reigned in the West after his Uncle. And, as if great Revolutions were portended to happen during his Reign, the same Month, the ninth day, about two of the Clock, happened a great Eclipse of the Sun ; which several Authors mention, but none describe so accurately, as *Philostorgius*. So greatly failed the light of this Luminary, that Stars appeared in the Heavens ; and so great a Drought followed thereupon, that it drew after it a great Mortality, both of Men and Cattel. At such time as the Sun was eclipsed, there appeared a certain Brightness in the Sky, of a Comick form, which some, out of ignorance, termed a Comet, though it had neither any Tail, nor so much as any Rays, neither resembled any Star ; but, as a Flame arising from some Candlestick. Besides, its Motion was altogether different ; for from the Equinoctial, it passed toward the West by the last Star in the Bear's Tail : and, when it had, in that manner, compassed the Heavens, then disappeared, after it had continued its Progress more than four Months. The Light it cast from it sometimes arose, as Flame doth, by degrees, to a great height ; and sometimes exceeding the Magnitude of a Cone, again was reduced to the bigness thereof : nay, it was represented to view in several other shapes, which were far different from those that are commonly seen. It lasted well nigh, from the middle of Summer, to the end of Autumn ; being a Forerunner of many Wars, and of an incredible Slaughter of Men, in the Opinion of the Relator ; who, to this of the *Xiphias*, or *Astrum Xiphoides*, adds the History of another Prodigy. The year following (some say, this present ; others, the preceding year) there were dreadful Earthquakes, accompanied with fire that fell down from Heaven, which seemed to cleave asunder, and put Men out of all hope of escaping, although they were more scared than hurt. For, by the Mercy of God, a great Wind arose, which drove the Fire into the Sea ; and, strange it was to see Streams of Fire overwhelming the Countries like so many Waves, which presently again were quenched in the Water. During the Earthquakes, in many places, the Roofs and Panes of Buildings opened at the top, with great noises and cracks, so that they that were within could behold the Skies ; when suddenly, again, they would come together, and unite, as firmly as if they had

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L. 1. d. Venatio-
ne ferarum C. 3.
Theod. 1. c. 1. c.
11.

L. 2. c. 1. c. 1. c.
L. 1. c. 1. c. 1. c.
ex his duob.
Leg. constituta vii.

A. D.

418.

Honorio, A.
12. & Theo-
dostio, A. 8.
Cons.

Lib. 12. c. 8. 4.
p. 1. d. 1. c. 1. c.

Sect. 3.

never parted asunder. The same happened to Floors and Pavements: and many Granaries let down Corn upon the heads of them that dwelt below, and put them in fear of being overwhelmed; but, all on a sudden, the Chinks and Holes would again close; so that such as saw it not, would admire whence or how the Corn could come thither. After this manner *Philostorgius* related these Earthquakes to have happened; and from the dreadful and strangeness thereof, concluded all Earthquakes, not to proceed from any natural Cause, as Water or Wind, but merely from the Will and Hand of Almighty God, for the Conversion and Amendment of Sinners.

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41
w

Honorius enacts something extraordinary about Testaments.

63. As it doth not belong to us here to dispute about Causes or Effects of such extraordinary *Phænomena* of Nature, so, this we know, as to matter of Fact, that dreadful Wars, and great Destruction of Men followed, not long after these Prodigious. And, although we hear of no great Motions about this very time, yet, so grievously, of late, had the West been wasted, and such loss of Men happened thereupon, and so little hope but that these mischiefs might suddenly again be renewed, as that it put *Honorius* upon making a Law about Testaments, which scarcely any thing but the Iniquity of the times can make altogether excusable. Formerly, though a Testament had been made ten years, or more, before the death of the Testator, yet notwithstanding, it might be of full force and effect; for that it was supposed to be the last, after which there was no other in being; and the Man not expressing any alteration of his Will, it was presumed he was still of the same Opinion. But now, *Honorius*, by an Edict inscribed to *Palladius*, the *Præfectus Prætorio*, declared, All Testaments made before ten years to be null and void, or “absolutely antiquated: and his chief reason alledged is, for that the death of the “Witnesses may, within that space of time, take away all proof of them. Considering the extreme danger Men were continually in, there was now cause to have such an Apprehension, the Lives of Mortals being now as uncertain and lubrick, as at any other are their Wills, Affections and Desires; which, in the space of ten years, may well be presumed very various and inconstant. *Justinian* afterwards abrogated this Law, yet he did not quite invalidate the sense and meaning of it: for, though he would not have a Testament therefore antiquated, because it was of ten years date, yet would he have it invalid if it could appear, though but imperfectly, that the Testator, after the making of it, was of a contrary opinion: So that he thought that, although in such a number of years, such a Will did not fall; yet, however, it did, as it were, reel and totter. Others have adjudged, that, in a latter Testament there is no need of any derogatory Clause, if ten years had already intervened from the making of the former, Oblivion of it being presumed from the lapse of so long a time. And *Honorius* would have a *Chirographum*, or Bond, to be renewed within the space of ten years. But, from what he ordains concerning the Date of ten Years, we may learn, that at this time the *Day* and *Consul* were wont to be set to Testaments, as otherwise it also appears; although, in the Reign of *Gordian*, it was not necessary.

L. 2.
C. 1. 7

Vid. G.

Restraints the Avarice of begging Courtiers.

64. However dangerous were the Times, and the Lives of Men brittle and uncertain; the consideration thereof procured so small Abstinence, and so little Contempt of Wealth, that now again this Emperor was constrained to repress the greediness of begging Courtiers, to the covetous Appetite of whom, the Affairs of *Africa* gave some Provocation. This he did by reviving and confirming a Law he had made fourteen years before, by virtue of which such persons could not enjoy any “Estates or Goods so begged before they had been incorporated, as the word was, “or seized by the Treasury, and relation thereof made to the *Comes Rei Private*, “an Inventory being had of the said Goods. But, whereas that Law did also require, that, by second Petition they should again be obtained by the Prince, he “now so far dispensed with this second Grant, as to make it suffice if a second Address “was made for them, to the said *Comes*. “This he declared in a Constitution directed to *Junius*, the *Proconsul* of *Africa*; and thereby provided also for his own Revenue, as by other Branches thereof, he consulted for the security of Possessors, against the Avarice of these gaping Courtiers, and also, the Treachery of Informers. Against the first he further enjoined, that, Whether a simple Rescript was only obtained “

L. 2. de l.
ratione, C.

an Estate, to which the *Questor* only subscribed *Questor Legi*, or a special Adnotation, as it was termed, or *Adnotatio Sacra*, when the Emperor, with his own “hand signed the Paper: in both cases a sufficient time should be granted to the “Petitioner to defend himself, either in Person, or by the Intervention of his A- “

L. 1. 26. 2.
Petitioni
Cod. Th. 1.
Id. Othob.
Cod. Just.

t. 2.

65. If the begged Goods were in any Transmarine Province, or in *Africa* an " whole year, for coming to Court, and applying themselves to, and making de- " fence before the *Comes rei privatae*; and six Months, if in any Neigh- " boring Province, that the accused, besides their defence, might have sufficient " time to settle their other matters before their Journey. And if it so happened, " that by the tricks or arts of the Petitioners they were hindered from prosecuting " their Journeys, as it seems, was too ordinarily practised in these corrupt times; " so as within the year, or six Months, they could not come to Court, no Pre- " scription should be good against them. But in case the party himself were a " live that owed the Goods, he positively declared, that none should beg them, " except, he was convicted and condemned for some certain crime. As for " Informers, he would have them produced in Judgment by the Petitioners before " the Petition had any effect. He declares, that none shall make himself Informer " the second time, without danger to his own person; and if he dare to do it the " third, he shall be certainly punished." How *Theodosius* his Father thought fit to punish them with death, though their Informations were true (for he would have them heard) we have formerly shown. But so careful he was of the interests of " private persons, and at the same time neglected not the complaints of some whole Countries, the Grievances of which he had more opportunity to understand than he could do the Burthens of those that lay beyond the Seas. The Province of *Campania* in *Italy*, and two *Suburbicarian* Regions, as he calls them, *viz. Picenum* and *Tuscia* complained, that by reason of Mischiefs arising from the late Wars, there were many Lands which lay deserted, and consequently could collate nothing to the publick Tributes. In answer to this, he wrote to *Palladius*, the *Prefect*, That without any difference made of Grounds, in consideration that *Cam-* " *pania* had of old born a more heavy burthen than others, and had lately been " wasted by an incursion of the Enemies, meaning the *Goths*, it should pay but a " ninth part of such payments as it was wont: and *Picenum* and *Tuscia* should pay " but a seventh, on this condition, that all Complaints should cease concerning any " deserted Grounds."

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413.

Theodo-
rius
an-

66. As *Honorius* his *Questor* was not much burthened this Year with penning Laws, so less was his Brother's *Questor* at *Constantinople*. There *Theodosius* was moved by complaint of the Cities to call back to the services of the *Curie*, such as by *Codicils* had obtained the Dignity of the *Clarissimus*, and being *Senators*: " This Work from Corporations seldom failing, whatever any other did. This " Dignity in an Edict directed for this purpose to *Monaxius*, *Prefect* of the *East*, " (wherein he tells him, he had also written to the *Prefect* of the City) he calls an incongruous fortune for such to aspire to, though other Princes sometimes thought otherwise, and various were their inclinations, as to the Honours and Functions of the *Curiales*, as we have sufficiently seen. But as we found his Uncle very munificent and charitable in relieving the oppressed, and remitting part of the Tributes that were due to him this Year, though we find him employed in a contrary course, we cannot but think him also well employed; for if Princes do not receive as well as remit, all their Subjects must fare worse for it. Besides the persons of Merchants who were subject to the *Collatio Lustralis*, it seems, there were also certain things or Lands that were obnoxious to that payment, possibly granted to the Possessors under that condition, or else because bought with Money, which was gained by Merchandise or Traffick. These things we find in the hands of persons of greatest Dignity at this time; but such were the occasions of *Theodosius*, that he forbade *Monaxius*, that any Merchant or Possessor of such things " whatsoever, that were obnoxious to this Collation of Gold, should either out of " trust to any Patronage, or confidence, by reason of the highest Dignity, think himself excused from that Function. No, though they pertained to the House of " the venerable Lady and Empress his Sister *Pulcheria*, or the other most Noble Sisters of his Piety." *Pulcheria*, who had formerly for her great Wisdom and Diligence been made *Augusta*, was afterward married to *Marcian*, and had an House in *Constantinople*. The other Sisters were *Arcadia* and *Marina*; *Flaccilla* being thought by some to be dead before this Year, and older than *Pulcheria*. They also had Houses in the City, mentioned in the old description of *Constantinople*. And they had also the Title of *Nobilissima*, that of the *Nobilissimus* being wont to be bestowed by the Emperor's on their near Relations; but yet in another sense than was that of *Nobilissimus Caesar*. *Gothofred* would gather from this Law, that at this time persons of greatest quality practised the Trade of Merchandise in the East,

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though in the West *Honorius* had forbidden it to them: yet what it saith concerning those of highest Dignity, rather seems applicable to Possessors of such things as were obnoxious to the Collation, than to those it calleth by the name of Merchants.

The Goths
permitted to
inhabit Gall.

67. In the Year CCCCXIX, of *Honorius* the XXVII, *Monaxius* and *Plinta* obtained the Dignity of Consuls. The two Emperors made their Abode as formerly. *Vallia*, King of the *Goths*, having prosperously fought against the *Vandals* and other *Barbarians* that had invaded that Country, dealt with *Constantius*, that he and his Men might be received into *Gall*, and there obtain place wherein to settle and inhabit. And *Constantius* was so favourable to his request, that he procured a satisfactory return from *Honorius*; so as this very Year, as writes *Prosper*, or the Year preceding, as *Marcellinus* hath it, they were permitted to return out of *Spain*, and to plant and fix themselves in *Gallia Aquitanica*, from *Tolouse*, as far as the Ocean, which Region was afterward known by the name of *Gascoign*. Now at this time, besides the natural Inhabitants, three sorts of People dwelt and domineer there. The *Romans* the ancient Lords, who still held that part which lay from the *Rhine* as far as *Ligeris*, or the *Loire*, except the Cities of *Armorica* (now *Britain*) which as some say had asserted their own liberty. The *Goths*, who had now lately possessed themselves of what lay from the *Loire* Southwards. And the *Burgundians*, who inhabited by the *Rhone*, though not all the Country, of which most of the Cities still continued in their fidelity to the *Romans*. *Constantius* now in a manner managed all Affairs under and for *Honorius*; and this Year his Wife bore him a Daughter, which was called by the name of *Honorina*.

Theodosius hath
War with Per-
sia,

68. *Theodosius* in the East after a long repose became about this time engaged in a War with *Persia*: for the *Persians* had broken the League, as well upon the account of Religion, as for other respects. *Isdigerdes*, who having been appointed Tutor to the Emperor, kept a good understanding with him all his days, being dead, as *Socrates* writes, *Bararanes* his Son succeeded, who persecuted the Christians at the instigation of the *Magi*, which yet his Father had never done. They being compelled by various torments and other afflictions, betook themselves to the *Romans*; and *Atticus* a Bishop had so much compassion for them, as to move *Theodosius* in their behalf. But this was not all the provocation. For the *Persians* having lately discovered some Mines of Gold, hired certain Workmen out of the Roman Territories, on condition that they should be returned back after such a Work performed; but though the Work was compleated, yet would they not restore the Men. Besides this, they broke their faith given to the *Romans*, in robbing their Merchants of their Wares. Those that fled upon the account of Religion being more welcome for these provocations, the *Persian* King presently sent his Ambassadors to demand the Fugitives. But the *Romans* were so far from sending the miserable people back, that to defend theirs, and the common cause of Christian Religion, they resolved to contest the quarrel by a War. And *Theodosius* began, by sending an Army under conduct of *Ardabarius*, who piercing into that Kingdom through *Armenia*, wasted the Province called *Azazena*. Against him came *Narseus*, General of the *Persian* Army, who adventured to fight, but was overthrown, and fled; after which to redeem the Infamy, he resolved by the way of *Mesopotamia* to invade the *Roman* Borders, at that time destitute of defence, and surprise them when they did least expect it.

69. The Design of *Narseus* was sufficiently known to the *Roman* General, who thereupon laid waste *Azazena*, and hasted with all speed into *Mesopotamia*. Hereby it was utterly frustrated, and he seeing himself so far prevented, having a great Army, when he was come as far as *Nisibis* (which, though placed in the Borders, was at this time in the *Persians* Hands) he sent to *Ardabarius*, and offered him Battel in a place to be agreed on; which he plainly refused, saying, that the *Roman* Emperors were not to wage War at his Discretion. However, great was the fear wherewith the City of *Constantinople* was seized; though the War being translated into *Mesopotamia*, and the *Persian* Army having there sheltered it self in *Nisibis*, the *Romans* had laid close Siege to it. By this time *Bararanes* had received intelligence both of the wasting of *Azazena*, and what danger both his Army and the City was in; and to relieve them he hasted with his whole Force. But considering what he undertook, by reason of the courage and strength of the *Romans*, he thought it safe to call the *Saracens* to his assistance, then governed by one *Alamundirns*, a Man of an haughty courage, who carrying with him a vast num-

t. 3. ber of his Nation, thought he had reason to bid the *Persian* King be very confident of the success; and namely that he would not only baffle and defeat the *Roman* Army, but take and deliver into his hands *Antioch*, that noble City of *Syria*. His Attempts no way answered his Brags, nor his success either of them; for he was so baffled and defeated, a dissention rising amongst his own Men, that flying when there were scarcely any to pursue them, they took the River *Euphrates*, and there about an hundred thousand are said to have perished. But the *Romans* that lay at the Siege of *Nisibis*, hearing that the *Persian* King was bringing amongst them a great number of Elephants, out of measure affrighted thereat, set fire to all the Engines they had used there, and retired into their own Territories. But they were forced again to make head against the Enemy, for several Skirmishes followed. *Areobindas*, the Lieutenant General of the *Romans*, killed one of the most valiant *Persians* in single Combat: *Ardaburius* by an Ambuscado cut off other seven of their chiefest Officers; and *Vitianus*, another *Roman* Captain, routed and dispersed the rest of the *Saracen* Troops. How these things were particularly performed, we are not of opinion with *Socrates*, that for fear of too long a digression, he therefore ought in silence to pass by.

70. However, they were all performed at Land; though by an Act of Pardon passed this Year by *Theodosius*, it appears, that he had some jealousy and apprehension of the Naval Power of some that were Enemies to the *Roman* Empire. As it was ever forbidden to succour with Necessaries, and to relieve with Money and otherwise, the Enemies of States and Kingdoms; so also with materials for Shipping: and at length it was found convenient to prohibit the shewing or teaching of *Barbarians* how to make Ships. The *Romans* had sufficiently learn'd by their own experience how great an advantage the knowing of this mystery was, having wrested the Dominion of the Seas from the *Carthaginians*, after they had once arrived at it. Yet notwithstanding, certain persons, as formerly in the time of *Severus*, so now, fled to the *Barbarians*, and taught them the way, who being afterward seized, were committed to Prison, in order to their trial, and farther punishment. In their behalf, and for their pardon interceded *Asclepiades*, the Bishop of the *Chersonesus*, with whose Intreaty the Emperor was so far moved (as seldom persons of his Order were said nay) that by an Edict he declared to *Maximus*, that at his petition they should be freed from Prison, and that punishment that hung over their Heads; but for the time to come, it should be capital to them, and all others, to communicate to *Barbarians* that skill of making Ships, which was unknown to them before. Now by *Barbarians* we cannot think were meant the *Persians*, though at this time there were ill understandings betwixt the Empire and them; but some of the Northern and *Scythian* Nations beyond the *Danube*, upon which plyed Gallies, called *Lusoriae*, of a new make or fashion. And the naming of the Bishop of the *Chersonesus* perswades us to this which is rationally thought to have been no other than that of *Thrace*. This Law could not but be very politick and seasonable in conformity with which by a decree of a publick meeting held at *Lubeck* in the Year MDLXIII, and in the *Hanse* Towns it was prohibited, that *Barbarians*, and especially *Johannes Basilides* then the cruel Emperor or Tyrant of the *Moscovites* should be taught the more rare sort of Arts, as then unknown to them; particularly such as related to Ships and Guns.

71. The reason was, they concluded, if they once arrived at the use of Navigation, they would not only pierce into *Livonia*, but also into *Germany* it self; as *Mons de Thou* observes, who farther notes, that the *Turks*, by the commerce they had with the *Genoeses*, (who by gain were allured into it) having once understood this mystery, passed the *Hellspont*, and by the assistance of the *Greek* Deceit and Pyrates, with a Fleet set upon *Constantinople*, the Head of the Eastern Empire, and having taken it, presently over-ran *Macedonia*, *Illyricum*, and all *Peloponnesus*. These Cautions and Laws out of prudence have been ordained by Princes and States, lest their Subjects by their art and skill should furnish and fortifie the *Barbarians* against themselves; but now they seem in these Ages to come too late, when the whole world in a manner, by reason of Trade, is sufficiently acquainted with Ships and Shipping. Yet is it still the custom for some Nations to forbid Strangers to build Vessels in their Ports without publick consent obtain'd, and such or such a sum of Money paid for such a Ship of such or such a Burthen; and particularly the Statutes of the City of *Dantzick* require it, that the benefit of Navigation may rather redound to their own Citizens than to Strangers. But to return

A. D.
10.

*L. ult. de pœnis,
Cod. To. D. S.
Ca. 1. Oñu.
L. de call. Cod.
Just. vald. ut.
hanc mutilata
est.
Propter petitionem civi reuerentissimi Asclepiadis Cœnesi in Episcopi, &c.*

Vide Joh. Loccenii de jure maritimo, lib. 1. c. 2.

Sect. 3.

return to *Theodosius*, by the last Constitution he made this Year, he commanded *Ætius*, *Præfekt* of *Constantinople*, (who the year before escaped narrowly a stab, which pierced his Gown and Coat, from one that pretended to reach him a petition) that all the Lime-kills which were upon the Strand, or Sea-shore, betwixt the *Amphitheatre* and Port of *S. Julian*, (named by the Emperor *Justin* the Port of *Sophia*, after his Wife) should be removed, both for the wholsomeness of the most ample City, and the vicinity of his own Houses ; so as none whosoever should be permitted to burn Lime in these places. “

A. D.

419.

L. ult. de
colim. in
Dat. 4. de
Ostrop. let
Cec. Ju.

Theodosius gives
his Subjects
leave to forti-
fie their Hou-
ses in the East.

72. We come now to the Year of our Lord CCCCXX, to the eight Consulship of *Theodosius Augustus*, and the third of *Constantinus* ; wherein *Honorius*, as formerly, held his Residence at *Ravenna*, and *Theodosius* at *Constantinople*. This Year the *Persian* War was carrying on ; and besides, what we have said already concerning the Military Preparations made by *Theodosius* for the Field, he thought of other ways for securing the Empire against the crafts and violence of the Enemy, of which *Constantinople* it self, and therefore much more the remote and frontier Parts, had great apprehension. By an Edict directed to *Monaxius*, he gave leave to all his Subjects inhabiting through the Provinces of *Mesopotamia*, *Ostroena*, *Euphratenfis*, *Syria Secunda*, *Phenicia*, *Libanensis*, *Cilicia Secunda*, both the *Armenia's*, both the *Cappadocia's*, *Pontus Polemoniatus*, the *Hellepont* and the rest “ where need was, if they so pleased to fortifie and incircle their Grounds with Walls. “ It had formerly been free for private persons to fortifie their Houses, but with Restrictions ; but now in a case of so imminent danger, he gave indefinite and general leave. So in our own Country, both before and after the *Norman* Conquest, multitudes of Castles were erected, and almost every private Man, if not with Stones, yet would fortifie his House with Water, the Moats being still remaining in most places. But as in time of danger that may be granted, which at other times may it self prove dangerous, the wisdom of after Ages thought fit to demolish these little Holds, neither will the publick safety permit, that every one may build Castles at his pleasure, except it be in the Air. By the Constitutions of *Spain* it is forbidden either to build, or repair them, without license first obtained from the King. But now adays there seems no great need of any prohibition in this matter, since the times that Guns and Gunpowder are found more effectual against Heaps of Stone, than Bows and Arrows, or any other wooden Engines. But for the Law, of which we were speaking, the same reason that made *Theodosius* enact it, caused *Justinian* afterward to retain it, and to put it into his Code.

A. D.

420.

Theodos.
8. de
J. ultio
Coff.L. 10. de
di. 4. de
privat.
lit. 1. de
Non. Ala.

Forbids un-
lawful Wares
to be trans-
ported to Bar-
barous Na-
tions.

73. And the same happened to another Edict which *Theodosius* published this same Year upon the same occasion. *Socrus* writes, as we lately heard, how one cause of the quarrel with *Persia* arose from their taking away the Wares or Goods of the *Roman* Merchants. And we cannot say, that the Merchants were so justly served, for importing into *Persia* things that had been prohibited. But on the eighteenth of *September* we find an Order directed to *Eustathius* the *Præfektus Prætorio*, wherein *Theodosius* signifies, That he had decreed, that no Counterband Goods, or any unlawful Wares should be transported to Barbarous Nations. These Wares were, as we have formerly seen, either Instruments, or Materials conducing to War, things whereby the *Barbarians* might be armed against the *Roman* Empire, or else Commodities that would sustain and nourish them in any Hostile Actions, as Money, Wine, Oil, and such like. It is true, Commerce had not been utterly forbidden with *Persia* ; but it was confined to certain places, as the Reader may remember, out of which it was not lawful for *Roman* Subjects to traffick. Now the better to prevent this mischief, several sorts of Officers were appointed to watch at the Ports, besides the *Comites Commerciorum*, who had, under the Disposition of the *Comes Largitionum*, the chief inspection of this Affair ; sometimes *Palatines*, sometimes *Protectors*, and otherwiles the *Officials* belonging to the *Duces* of the Limits. Before these *Protectors* or *Officials* the Emperor gives express charge, that all Mariners or Masters of Ships make Notes in the presence of the *Defensors* of the places, what Goods they have aboard, and whither they are bound ; moreover, that they have not been oppressed, or forced to pay more than was due (as often it happened through the avarice of Officers) and of this Act thus made, the Original shall be delivered to the Master or Mariner, and a Copy remain in custody of the *Defensor* of the place.

L. ult. de
viti. de
m. casu
d. 7. de
cal. offi.
L. 4. de
cod. tit.

A. D.

421.

Eustathius
A. nola
Coff.

74. For the CCCCXXI Year of our Lord, *Eustathius* and *Agricola* were Consuls. *Honorius* this Year made his Abode at *Ravenna*, and some alteration in the

the

3. the direction of Laws. For now did he promote *Constantius* the *Comes*, *Magister Militum*, and *Patritian*, who had deserved so well of him in the Wars against Usurpers and *Barbarians* for the space of ten years, who had married his Sister, and been thrice Consul, to the highest Title and Dignity of Emperor. He himself had no Children to whom he could leave his place, and finding the times very troublesome, and to require some other person to assist, he could not pitch upon a more deserving, no, nor fitting person, he having also a Son to continue the succession, on whom he conferred the Dignity of *Nobilissimus*; and sent the Picture of the new Emperor, as the custom was, to *Constantinople*. Four Constitutions made this Year bear the name of *Constantius*, joyned with the other two Emperors; or four several Laws, as they are now divided, which made up one and the same Constitution, designed to check the avarice and rapacity of such as gaped after the Estates of other persons. For this purpose *Honorius* gave in command to *Palladius*, the *Præfect*, who exercised this Office for seven years together, that if any forfeited or elcheated Lands or Goods had remained in the Hands of any persons for the space of five years, this should be a Bar against any Petition or Begging, as it was wont to be against the Treasury it self. "Wherein he was not yet so exact as the old Law had been, and that which *Justinian* approved, which allowed of four years Prescription to be sufficient. As for the Estates of such as were put to death for Crimes, he prohibits all begging of them, but commands that they be confiscated, except, by the Humanity of the Laws, they be to be left to their Children or Parents; which Humanity is only denied to that of Treason."

75. But yet, more particularly, because the Importunity and Oppression of these Beggars was intollerable, he made a distinction of Persons, whose Estates were so begged. Some, possibly, were yet alive; but not seldom hurried to Condemnation and death, by the procurement of those who thirsted after their Estates. Therefore he expressly forbids, that any thing belonging to persons alive, be begged, except they had already undergone Deportation, which always drew after it a Prescription of Estate. He had formerly ordained, that none should move him for any thing possessed by any person, but such as were convicted and sentenced; but now he thought fit to extend this further Indulgence to all that were not yet banished into Islands. But yet, though the Possessions of such deported persons might be begged, he still put this Restraint upon Petitioners, that they should make no request for any such Goods or Estate, till two years had passed after such Deportation. And again, he will not permit that any beg more than the Estate of one single person. Then, whereas it was often practised to grant away the Estates of those who would not appear upon Summons, he also forbids this practice in Civil Actions, for this reason, because the Interest of private men is only concerned in them; and in Criminal Causes, the same of the Parties is only hurt. Neither, if a person who had contracted with a publick Officer, denied the bargain, and failed to perform it, should therefore the Treasury fall upon his Estate, or any part of it. Then further, as to the Estates of dead Persons; if they left no Heirs, they might be begged, but not else, if any Kindred at all was remaining: Yet, if, before their death, they were not convicted after a publick Impeachment; but only, after their death, were said to have committed such Offences, he forbids that their Estates be petitioned for; as the Crime, so the Punishment, ending with the Party. And, if they were impeached before their decease; yet, if their Estates were not first confiscated, he commands that they be not begged. In the last place, to curb the boldness of Informers, he ordains, that they be produced in Judgment before the *Comes Rei Private*, e'er any Grant of the *Rescued* his Goods be made, without any Caution or Bail to be allowed; and, if they cannot make good their Impeachment, they shall be punished as *Calumniators*. However, he resolves that, after the Petition made, the Possessor of the Goods or Estate shall have a year's time to defend himself, besides what was formerly said of the Bar allowed him, in case he could plead five years Prescription.

76. These Laws, as we said, bore the name of *Constantius*, as well as others; but, as *Honorius* thought he had power enough to prefer him to the Dignity, so *Theodosius*, it seems, thought he had as much reason to deny it, and to reject his picture, sent upon that occasion, according to the Custom. For, this he did, as *Philostorgius* related, and *Olympiodorus* wrote, that the Messenger who was sent to him about the Election of *Constantius*, was neither admitted, nor received by him. *Philostorgius* affirmed, that *Constantius*, as highly concerned in so great an Affront, prepared

Sect. 3. prepared by War to be revenged, but died in the Preparation. *Olympiodorus* wrote, that by the Grief he thence contracted, he fell into a Disease, which so far increased upon him, that, when he consulted how he might maintain that Title by force, which, in a peaceable way, he had obtained, he died of a Pleurisie, in the seventh Month after his Promotion, and that in the City of *Ravenna*; as some say, it had been foretold him in a Dream. *Theodosius* might possibly be the more averse to the Promotion of *Constantius*, because now, he resolved himself to marry; and hoped to have Issue, wherewith to provide sufficiently for Succession. For, this year, he took to Wife *Eudocia Attica*, the Daughter of *Leontius*, a Philosopher; who had educated her in the Liberal Studies, wherein she was very eminent. Her first name, as *Socrates* writes, was *Athenais*; which *Atticus*, the Bishop of *Constantinople*, at her Baptism, changed to *Eudocia*.

Theodosius marries.

A. 1
4 2 1

Lib. 7. c. 21.

Honorius hath hopes to recover Spain.

77. For the Year following, or the CCCCXXII, no Subjects bore the Title of *Consuls*, but the two Emperors themselves; *Honorius* the thirteenth time, and *Theodosius* the tenth. *Honorius* continued his Abode at *Ravenna*, and *Theodosius* at *Constantinople*, as formerly. *Honorius* had now some hopes of recovering *Spain* to his Obedience; Experience having taught, that the *Vandals* might be overcome; as the *Goths*, before their Retreat into *Gall*, had, not long since, made apparent. He had two excellent Commanders at this time: one *Castinus*, who was *Magister Militum*; and one *Boniface*, a *Thracian*, now the *Comes Domesticorum*, and of *Africk*: both whom he resolved to employ in this War; that the one with Forces by Land, and the other with a Fleet from *Africk*, might, with equal Power and Command, carry on the design. And, at first there was an happy Understanding betwixt them, which produced such Effects as promoted the Interest of him that sent them; for, they got into their hands *Maximus* and *Fovinus*, who formerly had usurped, and fought once or twice against the *Vandals*. But, not long it was e'er Ambition and Emulation, which most commonly happens amongst those of equal Command, put a bad Conclusion to so good a Beginning. For *Castinus* grew so proud, that he would not own *Boniface* for his Equal, and *Boniface* scorned to acknowledge him for his Superior, and departed with his Fleet; and, coming to the Port of *Rome*, thence sailed into *Africk*, where, as in his own Province, his Authority was chief in Military Matters. The *Vandals*, who formerly, could not sustain the shock of both, when conjoined; thought they might now grapple with a single person: from despairing, they became resolved; and, renewing the War, through the imprudence of *Castinus*, gave a great Defeat to the *Romans*.

A. 1
4 2 2
Honorio, Theodosio
10. A. 2
Conf.

The Pride and Emulation of his Captains blast the Design.

He redresseth more Grievances in *Africk*.

78. Whether by the desire of *Boniface*, to gratifie his Province before his departure; or at the complaint of the Provincials themselves, we know not; but, toward the latter end of *February*, *Honorius* granted a Pardon, or Indulgence of certain Debts owing in the Proconsular Province of *Africk*, as also, in that called *Byzace*; which was larger, and contained more Ground than the other, as appears by the Account of the Acres and Centuries of each Country. He was as ready to rescue poor and honest Men from the Rapacity of some Creditors, who, at this time, preyed upon them in so unreasonable manner, that a large Constitution was made at the beginning of *July*, directed to *Fohn*, now *Præfect* of *Italy*, for Redress of so great a Grievance. Some of them, because they had not Strength and Authority enough themselves, would transfer their Actions upon Persons of Place and Employment, who thereby could strike greater terror into miserable Men; and make them submit to unreasonable Terms, rather than contest them. This he forbids, upon pain of Creditors their losing their Debts so made over. And, it having formerly been Law, and so declared by *Claudius*; as also, by *Diocletian* and *Maximilian*, he now enforced it; and the Law-makers of the Barbarous Nations, afterward, thought also fit to establish it as such to their Subjects. It was too ordinary for persons to commit money into the hands of Slaves, Agents and Bailiffs, for the use and improvement of the Lands or Possessions, as was pretended, though it was formerly, by the *Prætorian* Law, forbidden; which now, *Honorius* so far confirms and reinforces, as to declare all such money forfeit, except their Masters had given express and particular Order and Instructions as to the borrowing of it, and the quantity so borrowed, according to the said Law. Indeed, if such Bailiff or Officer was not obnoxious to any Accounts belonging to his own Master, the Creditor might have an Action *De Peculio*, or against so much as such Slave or Bailiff had of his own, distinct from the Estate and Goods of his Lord.

L. 14. de Ind. gentis did. rum, Cod. The. 10. Cal. Mar. Abest a Cod. Just. ut in raria.

L. un. de An. nib. ad pot. translat. Th. lib. 2. c. 1. & L. 10. de Just. Ne in potentioribus. 5. Id. Jul. L. un. Quod su. Cod. Th. tit. 3. L. un. de Pot. Cod. Th. tit. 32. L. ult. Cod. Quod cum qui in alio potestate. his duobus statuta est.

79. It was become a practice, that when a Suit was commenced for Money owing,

ect. 3. ing, the Mony should be sequestred into the hands of some third person, to keep and preserve it: which practice did more promote the ends of covetous and griping Courtiers, than tended to any publick Advantage. And, now *Honorius* utterly declared against the necessity of such Sequestration, as founded neither on Law nor Equity. For, the Law required that the Plaintiff should first found and prove his Intention, and Equity would not permit that the profit of the thing should be taken from him that was in Possession; and, that in a Suit or Action, one should begin with Execution; that he who was neither heard, judged nor condemned, should, for a time, be spoiled of any Interest or Concern, as he was by vertue of Sequestration. Therefore, before the Party should be convicted, or Sentence given, he would not have the Mony taken from him, as neither regularly can other Moveables before Judgment, except in certain Cases; as where the faithfulness of the Possessor is suspected as to keeping of the thing in Controversie, and he refuseth to give Caution: When the Chastity of a Woman is questioned, till the Tryal is over, and some few others. But farther, our Emperor was so great an Enemy to these unjust Vexations, that he would have no Goods or Possessions of any Man siezed for the Debts of another Person, whether publick or private. And, because the Avarice of such as begged Estates could, by no means, be obviated by any Prescript; yet he sufficiently repelled them, how powerful forever at first they were thought. Whereas he lately had granted to the Possessor of such Estates a years time to defend himself, which expired, the Beggars might have been admitted: Now he thought fit to assign and prefix to such Petitioner also a years time, within which, if he did not make good his pretensions, he should not only fail of his design, but be condemned in the Costs and Expences of the Suit. This Edict was published and exposed in the *Forum* of *Trajan*, toward the latter end of *August*, being directed to *Proculus*, the *Comes Rei private*.

80. Some accidents happened about this time, which caused this Emperor to take notice of certain inconveniences, to which Women were exposed in their Marriages. Now was observed, what has ever since been too ordinarily practised, that Tutors and Guardians disposed of such Maids as were committed to their trust, more for their own ends than the advantage of the Virgins, and often contrary to the purpose of their Fathers, though they had contracted them before their death. *Honorius* thought this so unreasonable, and tending to such mischief, that considering the frailty and inconsiderateness of young Women, how ready they are to cast away themselves, by a Law directed to *Marinianus* the *Præfettus Prætorio*, he expressly commanded, that if a Father had proceeded so far before his death, as to betroth or contract his Daughter, this Contract should hold firm and good, notwithstanding any thing done by her *Curator* or Tutor to the contrary; nay, though she herself being adult, should consent to the rescinding of it. This he ordained in case of a Contract or Desponsation made by the Father, which is not to be extended to a simple destination, purpose or designment; for the Guardian in several cases might recede from, or cross the destination of the deceased Father, if the interest of his Pupil did require it. The Emperor was further informed, that Women were often hardly dealt with by the Heirs of their Husbands, to whom having often brought a large Dower or Portion, they were wont to defraud them of it, as belonging to the Estate of the deceased, or to his Children. Hereupon he thought fit by the same Constitution to settle the matter of Dower, in respect to the deceased, both of Wife and Husband. If the Husband died before the Wife, the *Dos* or Dower which she brought with her should return to her entire, so as the Heirs should have nothing to do with it. If so be the Wife died before the Husband, the *ususfructus* of it should remain to the Husband as long as he lived, but the propriety to the Children they had betwixt them. And if the Husband had returned back the Dower of his Wife before her death, this returning it back being to be esteemed no other than a Donation betwixt Man and Wife, which the *Roman* Laws expressly forbade; her Heirs should restore it back to the Husband with all the profits since the day it was returned; it being reasonable, that he should have the advantage of the Dower, who sustained the charge and burthen of Matrimony. In conclusion for all this, *Honorius* will not have the Sons deprived of such Estates, though made over before Marriage, as came by their Fathers. Here to avoid confusion, must be known, that by *Dos* the *Roman* Laws understand that which the Wife bringeth to her Husband in Marriage, otherwise called Marriage Goods. But that which she hath of her Husband after the Marriage resolved, if she outlive him, they term *Donatio propter*

A. D.

422.

“L. un. de l. ec-
“n. l. sequestra-
“tione prohibita,
“Cod. Tit. lib. 2,
“tit. 28. L. un.
“Cod. Just. ord.
“tit. Dat. 7. lib.
“Jul.

“L. un. de l. ec-
“torib. Cod. Tit. 2,
“l. 4. Cod. Just.
“ord. tit.

“L. 3. de Foristi-
“onib. Cod. Tit.
“P. l. in for. Tra-
“jan. 8. Cal.
“Septim. Abest. 2
“Cod. Just.

“L. 7. de Sponse-
“lib. Cod.
“Th. 5. L. 4. Cod.
“Just. ord. tit.

“L. 3. de Doti-
“bus, Cod. Tit. lib.
“3. tit. 13. Dat. 3.
“Non. Non. &
“L. un. Cod. Just.
“Solutio Matrimo-
“nio quem ad-
“modum dos pe-
“tatur, & L. un.
“Cod. Si dos con-
“stanta matrimo-
“nio soluta fue-
“rit.

“L. 4. de Securita-
“Nuptias, Cod.
“Just. lib. 5.
“tit. 9.

videth that
omen be
cheated
fore or af-
Marriage.

Sect. 3. *Nuptias* ; or a Donation in consideration of a subsequent Marriage.

81. From these matters we must pass to the Coast of *Theodosius* at *Constantinople*, and see how Affairs there stood, in reference unto War and Peace. And the War we find still depending with *Persia* at the beginning of this year, though to the advantage and encouragement of the *Romans*. We have heard from *Socrates* in short, what the Achievements of *Arcobindus* were against the *Persians*, and how the Attempts of *Vitianus* succeeded against the *Saracens*, the good prosperity of both whom, were presently, as he saith, conveyed to the Emperor *Theodosius* after this manner. He had one *Palladius*, a Man of extraordinary Endowments both in body and mind, and especially of such ability in Riding, that in three days time he would pass to the Borders of *Persia*, and in so many more return to *Constantinople*; nay, he would to the other parts of the Empire pass with that expedition, that it was said of him, that the *Roman* Pale, which was large of it self, he made straight and narrow by his celerity; and as for the King of the *Persians*, he was astonished when he heard of it. However, the *Roman* Emperor when he received intelligence thereof, was not so puffed up with the Victory, but that he was willing to embrace a Peace; and for that purpose, sent away to the Borders one *Helio*, whom he very much esteemed. *Helio* undertook what he commanded, and proceeded as far in his Journey, as the place where the *Romans* had intrenched themselves, and thence he sent *Maximinus*, an eminent person, and the Colleague of *Ardaburius*, as a Commissioner to conclude the Treaty. He, when he came to the *Persian* Court, told them, he was sent, not by the *Roman* Emperor, but by his Lieutenants to make a Peace; for *Theodosius* was ignorant of the War, and would esteem lightly of it, should he once come to the knowledge of it. The *Persian* King was ready enough to receive the Embassy, and good reason, for his Army was almost starved in the Field; but his ten thousand Soldiers, whom they called *Immortal*, adorned above all others, with golden Chains, and precious Stones, persuaded him, that he should not have thoughts of peace, till they had first made an Attempt upon the *Romans*, who were at present utterly unprepared to make resistance.

82. The King observed their Directions, and presently committed the Messenger into custody, and sent these *Immortal* Men to work their will against the *Romans*. They marched away, and dividing into two Parties, by this stratagem intended to circumvent part, at least, of the *Roman* Forces. And they so far surprised them, that thinking them to be no more than what was contained in one of these Parties, they willingly sustained their Charge, till a certain Captain being sent by *Procopius*, one of the principal Officers, to make a discovery, by good providence from an Hill saw in how great danger his Friends now were, and fell upon the Backs of the *Persians*; so as the Besiegers were besieged. The *Romans* in conclusion utterly defeated this Party, and then fell upon the other, which designed to lie as a Reserve, which they also cut in pieces, and thereby proved these *Immortals* to be but *Mortal* Men. The *Persian* King, when he heard of the success of his bold *Immortals*, received the Message as utterly ignorant of what had passed; and told the Messenger, that he would not yield to the *Romans*, but yet embrace the Peace, and demanded wherein he might gratify him whom he had found most prudent of all the Empire. By this means not only the War which had been undertaken for defence of the Christians was put to an end in the thirteenth Consulship of *Honorius*, and the tenth of *Theodosius Augustus*; but the persecution raised against them in *Persia* utterly ceased. Other Writers speak of a Victory obtained over the *Persians* on the twelfth of *September* of the foregoing Year, or the Consulship of *Eustathius* and *Agriкола*; and they agree, that in this Consulship of the Emperors, peace was made. *Socrates* further adds, that for this Victory, in praise of the Emperor, many learnedly wrote, and published their Writings to the World. And amongst the rest, the Empress her self being an ingenious person, wrote a Poem concerning this Argument in Heroick Verse. But the Soldiers returning from the Expedition, and being to be quartered in *Constantinople*, a question arose, whether those persons, to whom were assigned the Towers which belonged the new Wall drawn through their Grounds, and lately mentioned, were to afford Quarter in such cases as well as others; and the reason of the dispute was, because in the Edict made concerning that matter, they seemed only liable to annual Repairs. But *Theodosius* now on the third of *March* declared, That such Towers ought to be obnoxious to receiving of Soldiers, either returning from the Expedition, or going to the Wars, on the first Floors, or those next to

Peace made
with *Persia*.

L. 13.
tis, Co
5. No
L. 7. C
804. 11

the

3. the Ground; neither ought the Possessors of them to take it ill, seeing that private Houses were also subject to this burthen. D. A.

83. It concerned him to take care for Soldiers, by the care and endeavours of whom, he and all his Subjects enjoyed in quiet what they had. For this reason, the *Roman* Laws gave them privileges in many things above all other Men; particularly they in their Expeditions might make Testaments which should be in force without the usual and requisite Solemnities, and though by the Laws all Fathers had their Sons as long as they lived so fully in their own power, that, not very much unlike slaves, though called *Liberi*, whatever by their labour and industry they got or acquired, they acquired it for their Fathers, who alone had the propriety of it; yet what Soldiers saved of their pay, or otherwise got as Soldiers, they had propriety in it, and peculiar to themselves, it being called *Castrense Peculium*. Now though the Soldier seemed (especially in Martial times) chiefly to deserve this encouragement; yet afterwards when what was got by War, was found to need preserving by Civil Ways and Methods of Peace and Laws, it was thought fit also to confer like privileges on such Gown-men as did preserve and govern what the Sword-men had obtained. The Girdle was first the Badge and Ensign of Military Men; but at length by degrees it was worn also by *Palatine* Officers, by Magistrates of Provinces, and Lawyers who had a *Militia* of their own, and were said also *Militare*: Last of all, Ecclesiastical Persons assumed the Girdle, to whom though it seems now peculiar with us, yet in the Neighbour Nation it is still worn by the Advocates, and the Kings Counsellors, as they are called. And as these persons received the Badge, so also the Emoluments of the *Militia*; as the Shadow or Circumstance, so also the Substance. For, in imitation of the *Castrense Peculium*, it was first granted to these that were *Precincti*; as to *Governours* of Provinces, *Proconsuls*, *Presidents*, and all others, who being placed in divers Dignities and Administrations received Salaries from the Prince, to have and enjoy such sums of Money, or other advantages they had got in their places to themselves, so as they might dispose of them by Testament; and this was called *Quasi Castrense Peculium*. 4. 2. 2.

84. So stood matters before the time of *Constantine*, by the ancient Laws and Constitutions of Princes. Afterwards that Prince thought fit to grant the privileges of *Quasi Castrense peculium* to all his *Palatines*. And after such time as the *Praefecti Praetorio* came to such height, that they were esteemed in a manner Kings without Purple, the same privilege (as several others to those about them) was granted to the *Advocates* that pleaded in their Courts. *Theodosius* this Year finding things in this posture, was easily inclined to be kind to, and confer on the *Assessors* or *Assistants* of *Governours* of Provinces the same Prerogative. But, *Augustus*, though he first of all assigned Salaries out of the publick Revenues to *Presidents* of Provinces; yet took no care for their *Assistants*, who were paid by the Magistrates out of their own Purfes, till *Pescennius Niger* assigned them Salaries, to remove the burthen from those they assisted. and that for this reason, because a Judge ought neither to take nor give. These Salaries or any other profits they honestly made of their places, *Theodosius* now thought good to ascertain to them, that they might have as much propriety in them, as after the death of their Fathers; and that they might challenge and recover them to their own use, as their own Estate. And further, by the same Constitution directed to *Enstathius* the *Praefect*, he told him, that not only in his Court, but in all other Courts of Justice, such as were of that Profession, or were *Advocates*, and had Fathers living, should after their death obtain, as a *Quasi Castrense Peculium*, whatever they had got by it, or by occasion of it. Now as by their Profession they got their *Fees*, or *Honoraries*, as they were termed; so by occasion of it they received *Presents* from the Emperors, which, as New-years Gifts, they were wont to bestow on deserving persons on certain days. But whereas this Constitution speaks of their coming to the possession of their *Peculium*, after the death of their Fathers, it hints this to us, that all that had this privilege had not power of making a Will before their Father's death, but only came to the full possession afterward of their *Peculium*; so strict and severe were *Romans* in keeping up paternal awe and reverence. But afterwards *Justinian*, to all those who had the Right of *Quasi Castrense Peculium*, gave this Indulgence, also of disposing it by Testament before the death of their Fathers.

85. The common Concern of Learning will not suffer us to pass by another Edict, and the last of this Year, directed by *Theodosius* to *Florantius* the *Praefect* of

Constantinople, in consideration of the merits of *Macrobius*, now the *Præpositus Cubiculi* of the Emperor. This *Macrobius* is rationally thought to have been no other than *Aurelius Theodosius Macrobius*, the Author of the *Saturnalia*; for that this Author lived at this time, all generally agree, and the last name of all was wont to be taken in Inscriptions for the proper name of the Party, as *Macrobius* is here; the times do very well agree, and in the Title, or Frontispiece of his Book he hath given him the Title of *Inlustris*, all which do very well suit with the wording of this Law. Besides, the Author of the *Saturnalia* confesseth himself born in another Climate than that of *Latium*; and that therefore the Ven of the Latine Tongue might not always possibly assist him, whereby may be very probably gathered, nay, presumed that he was a Subject of the Eastern Empire, and naturally spoke and wrote *Greek*. But for his sake, as the Emperor declareth, (though he was not his Tutor, nor brought him up) did he now make the *Præpositus Cubiculi* equal with the three superior Dignities of *Præfectus Prætorio*, *Præfectus Urbis*, and *Magister Militum* (as we have formerly said in our *Apparatus*, or view of the Polity of the Empire) though formerly he was below the *Consistorian Comites*. Of these four, each should take place as he was preferred, whether in saluting (or adoring) the Prince of which we have formerly written, or in solemn Feasts and Meetings as these belonging to the Consuls, Assemblies of the Provinces, or Salutings of the Judges, whom some had the privilege to kiss. But this is on condition, that they be in their proper Habit, or the accustomed Dress: for to every Dignity were Habits and Ornaments appropriate, without which, whoever came to any solemn Assembly, was neither fit, nor wont to be admitted, especially in the presence of the Prince.

86. In the *Fasti* or *Registers* of the Year CCCCXXIII, *Asclepiodotus* and *Marinianus* are found to have obtained the Dignity of Consuls. *Honorius* still continued his Abode at *Ravenna*, and *Theodosius* staid at *Constantinople* till the Month of *August*, and then removed to *Endoxiopolis* for some time. While he continued at *Constantinople* at the beginning of the Year, he considered how Countrymen were obliged by the Laws to provide Provisions for his Palatine Servants, or Money in lieu of them, which certain Officers being sent to exact, very much oppressed the People. Therefore he gave order to *Asclepiodotus* the *Præfectus Prætorio*, as well as Consul, that to prevent this oppression, he should cause these Provisions to be valued, and taxed in Money, as those of the Soldiers were wont to be. And because many now adays refused to contribute toward the repairing of Bridges, pretending it was a sordid Employment, or Contribution, he declared to the said *Asclepiodotus*, that it should not be taken for sordid, being such, as together with the making of High-ways were dedicated by Inscriptions, even of great Princes. Therefore would he not permit that any sort of persons should refuse to contribute to these Repairs, no not his own Houses, or these belonging to his Patrimony, nor the venerable Churches. And he commands the *Præfect*, that to the end that High-ways be conveniently looked to, as in ancient times; this Law shall be intimated to the Judges of all Provinces, without any respect had to any Reverence or Dignity. The *Persians* and other Enemies were at present, quiet; but none could tell how long they would so continue; and therefore as for the publick security, it was requisite that Bridges and Highways should be kept in repair, so, more especially that the Borders should be well defended. To this end many Castles, as we have said, were placed upon them, and the Grounds belonging to them were of ancient times assigned over to the Soldiers belonging to these Borders and Castles. But also at this time private Men, or Soldiers who did not belong to the Castles and Borders, by some means or other got these Lands to their possession. To reform which Abuse, he now declared, That such persons found upon them should both forfeit their lives, and undergo the loss of all their Estates. And this he signified to *Asclepiodotus* by the Title of *Præfectus Prætorio*, and Ordinary Consul.

87. Hereby he did Justice to, and obliged these Soldiers whom it most concerned him to gratifie; and by another Edict directed to the same person much about the same time, he could not but please the best and most ancient Military Men, making a distinction betwixt them and the Juniors, or ordinary sort. For whereas of late years it had been the custom for the Provincials, instead of Soldiers Cloaths, to pay Gold into the Emperor's Treasury, he now orders *Asclepiodotus* to pay of this whole Reccit, five parts to his most valiant Soldiers, as he calls them, and the sixth to the *Gynæciarii* (whose work it was to make Cloaths) wherewith they in

specie

Theodosius still
redresseth
Grievances.

Provides for
the strength of
the Borders.

A.

42

Lib. 1. f.
pag. 161
E. l. 1.
E. l. 2. or.L. ult. l.
L. ult. l.
L. ult. l.
L. ult. l.
L. ult. l.
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L. ult. l.

A.

42

Asclepi.
no Coll.L. 25. c.
L. 15. c.
L. 15. c.
L. 15. c.L. ult. l.
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L. ult. l.L. ult.
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L. ult.L. 5. c. 16.
L. 5. c. 16.
L. 5. c. 16.
L. 5. c. 16.

Sect. 3.

Gratifies his
old Soldiers.

Specie should furnish those he terms *Juniores* (*Tirones*) and *Gregarii*. " This he did, because he had more belief of the care and prudence of his best Men, than of the fresh-water and *Gregarious* Soldiers, who were not to be trusted with Money, being young, raw and foolish in such cases. Yet he had more confidence in Soldiers, than he had in some Civil Officers at this time, if we may call them Officers. There were, as seldom wanted, great complaints now against such as attended the Governors of Provinces, and by name, against those they called *Domestici* and *Cancellarii*, which grew so continual and importunate, that he expressly forbade, That any Judges should carry such with them into their Provinces, or receive any commended to them for that Name and Employment, under pain of Infamy, and a Confiscation of Estate. But that by care of the *Primates* of the Office, the *Cancellarii*, or Chancellors, should be chosen, (out of the Body of the Officials) and placed with the said Governours; but so as for three years they should not depart out of the Provinces, after their attendance expired, that they might be exposed to the Accusations of the Provincials, if need should be, and to detect the faults or corruptions of the Judges, and that by being lyable to the *Question* or Torture. "

A. D.

422.

88. These *Domestici* were a sort of Attendants on the Judges, even Military as the *Duces*, as also on the *Principes* of the *Agentes in Rebus*, not for the dispatching of publick, but private Acts. And there were many things common to them with the *Assessors*. Both of them were forbidden to buy, or receive any thing by way of free gift, in the Province of that Magistrate to whom they belonged. They were both prohibited to marry any living in that Province. The Thefts or Rapines of both were to be restored four-fold. But they were to be chosen according to this Law, whereas the Magistrates themselves might chuse their *Assessors*; only the *Domestici* belonging to the *Princeps Agentum in Rebus*, was chosen by the Prince himself, and might twice execute the Office, which to the other was unlawful. The *Cancellarii*, or Chancellors, so called in this Law, were, as originally, so now, of mean condition or quality. It is evident from *Agathias* and *Cassiodorus*, that they had their Name from the *Cancelli*, *Latices*, or through pierced and carved Walls and Doors, of which in the *Secretaria* or Courts of the Judges they had the care. For besides the *Velum* or Hanging in these *Secretoria*, there were such Partitions of Wood to keep off the people, through which, when occasion was, the multitude might look, and if the case required it, the *Velum* only drawn, would intercept their view. Such was their Employment, as *Cassiodorus* describes it, to which other Authors sufficiently attest. As they were entrusted with the *Secrets* of the Magistrates, by degrees, and in process of time they were employed in greater matters, than to keep the Doors, and by little and little their Name or Title came to be given to the greatest Officers of State, after the decay of the Western Empire, who, as ashamed of the original of the word, were willing to admit another derivation, not from the *Cancelli*, but a *Cancellando*; from cancelling what was done amiss by Princes after they had looked over their Acts and Writings, and giving order in what was to be done. Indeed *Cancelling* (*Cancellare*) is used in the Art of regulating Bounds and Limits of Grounds, so as to delineate or draw lines oblique and transverse; and so in cancelling or blotting out Writings, the pen is wont to be so carefully carried, as to make such Shapes and Images of Lines as were in carved Walls or Doors, or the *Cancelli*. But whether so great Officers of State could probably receive their name from undoing, rather than doing, from obliterating rather than ordaining, let those consider who think it worth their while to amuse themselves in the Inquiry.

89. This was the last Year of *Honorius*, and he began it well by amplifying an Indulgence given by him to the *Urbicarian* Regions. He had formerly granted a pardon throughout these Regions for all Arrears due for such *Annone*, or such *Provisions* as were wont to be paid (for maintenance of Soldiers, and other persons, the service of whom was necessary to the Common-wealth) to the Receipt of the Illustrious, the *Præfectus Prætorio*. Now he thought fit to extend it to what was payable to his two great Treasurers themselves, either *Largitionum*, or *Rei private*; for he would not have such Lands as were holden in the way of the *Emphyteusis* to be excepted from this Indulgence. " Now take notice, that these *Annone* which were paid throughout all the Provinces of course, are by all means to be distinguished from these *Annone* which were paid in for the Provisions of the Emperor's own House, by those Provinces of *Italy* which had the name of *Annonaire*, upon that occasion. This Constitution is singular, and alone in this, that

Honorius in his
1st Year
makes Acts of
pardon in be-
half of Pro-
vincials.

*Leg. de Indul-
gentiis. Distin-
ctio. c. 1. 2.
Regula c. 11.
Fol. 1. 2. 3. 4.
Cod. Just. de
temporaria.*

Sect. 3.

at the foot of it it is said to be *Regeſta* on the eighth of February, being directed to *Rufinus*, now *Comes Sacrarum Largitionum*. But, thereby is no more meant than this, that it was entred or recorded in the Books of the said *Comes*, or referred or reduced into his *Geſta*; which, from theſe and other References, came to be called *Regiſtra* or *Regiſtres*, as now they are; though in thoſe days, whereof we write, the Books of the great Officers as well Military as Civil, as of the Scribes of the City of *Rome* were called *Regeſta*, as they that entred the Edicts, or other matters, were thence named *Regendarii*. He had, as was convenient, ſtill a regard to the maintenance of Military Men; and therefore, whereas, upon the Borders, Grounds or Lands had been, by the Emperor's Appointment, assigned over to Soldiers, he confirmed to them the Dominion of ſuch as they had in that manner obtained; and, except any of their Fellow Soldiers had been before them, or conſigned over the Poſſeſſion of the ſaid Grounds to other Perſons, he confirmed them in the Poſſeſſion. And, he concludes his Sanction with ſuch expreſſions as are ſcarcely Chriſtian; however, his *Quæſtor* found them amongſt his Records: that, If any, after this Definition of his *Numen*, ſhould ſieze upon ſuch Grounds as were comprehended in the preſent Form of his *Oracle*, he ſhould incur a Mulct of twenty pounds of Gold.

A. D.
423L. 1. c.
de v.
tit. 2.
Cal. d.
n. Con.

And of Soldiers upon the Limits.

90. But ſuch diſputes there were about thoſe Grounds which he and his Predeceſſors had granted, and ſo ill uſe made of them for the advantage of the Government, that, at this time, he was urged much by thoſe about him to paſs an Act of Reſumption, and take them again into his own hands. He was ſo generous, as utterly to reject their motion, however the dangerous condition of the times might have perſwaded him to it: nay, he became ſo far reſolved againſt this practice, as to confirm to the Owners what had formerly been given and granted to them. But he thought it prudence, withal to ordain, that, in certain caſes, Relief ſhould be granted from thoſe Tenants or Poſſeſſors, when extreme neceſſity of Affairs, preſſed unto the State. Yet, if a perſon had not enjoyed ſuch Lands the ſpace of five years, he ſhould no way be forced to ſuch Contribution. If he had enjoyed them above five years, but not ten; then he ſhould only pay one years Pension: but, if ten, and more; then only that of two years. This was thought an Act of great Moderation, conſidering what was wont to be practiſed in the like ſort. The Judge that ſhall ordain, and him that ſhall exact more than this, he fines at ſixty pounds of Gold. And all the Palatine Officers of *Trygetius*, the *Comes Rei Private*, to whom he directs the Edict, he ſubjects to the ſame penalty, to whatſoever of his *Scrinia* they belonged; for he had four *Scrinia*, viz. *Beneficiorum*, *Rationum*, *Securitarum* and *Largitionum Privatarum*. And, not only ſubjects them to the ſame Mulct, but alſo, deprives the *Primates* of the ſeveral Offices of their Girdles: and, in concluſion, he commands, that, to cut off all fear from the Provincials, all the Books of Registers, wherein greater Summs of the Collation were allotted, ſhall be burnt; as alſo, ſuch perſons as ſhall dare to produce any Teſtimonies of ſuch Collation.

L. 4. de c.
ne Deat.
Cod. Tit. 1.
Jura Tit. 1.
Cal. Jan.

Concerning the manner of proceeding in Criminal Causes.

91. Being now ready to leave the World, the laſt thing he did in things of this nature, was to take order, as much as in him lay, that other perſons ſhould not be forced to leave it before their time, or without a due Courſe of Juſtice. For this purpoſe he published a large Conſtitution concerning the manner of proceeding in Criminal Cauſes, and directed it to the *Conſuls*, *Prætors*, *Tribuni Plebis* and his *Senate*; to which, as an Oration, it is principally directed; and, not without reaſon; for, in the firſt place, for the ſecurity of perſons of that Order, it confirms the Law made by *Gratian* nigh fifty years before, concerning the *Quinquenvirale Judicium*, or the Tryal of *Senators* by five perſons: to which he declares, that theſe five perſons ſhall be choſen by lot, and not deſignedly, or picked out; both becauſe he thinks that none can be taken amiſs out of ſo noble an Aſſembly, which conſiſted of the greateſt Men, for Worth and Eſtates, of all the Empire; and eſpecially, that there may be no ſuſpicion of partiality. But, for the preſervation of the Lives and Eſtates of others, he farther reinforced the ancient Laws. So as he that was accused ſhould not therefore be received into the number of guilty perſons; much leſs be condemned, or committed to cuſtody. But, that the Accuſer, being preſent, ſhould make the uſual Inſcription before the Judge, of ſubmitting to the ſame puniſhment; and, till the Tryal was over, kept in cuſtody as well as the perſon he accuſed: but yet, according to his Quality, the Laws making diſtinction herein, as to Free Cuſtody, and Confinement, as we have formerly ſeen. But, in the next place, he declareth, that No Credit ſhall be given to a-

L. ult. de
dil. &c.
Id. Aug.L. ult. de A.
ſationibus,
Cod. Tit. 1.
Cod. Juſt. de
caſationibus.
L. ult. de c.
n. Tit. 1.

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t. 3. ny one, who, being examined by Torture, and therein confessing, as to himself, "accuseth other persons. This had been formerly Law in part; and, for this reason, because he that already despaired of his own life, should not bring into danger the lives of other Men: but this Emperor enforceth it upon this further Consideration; that, in Torture, Persons being desperate, commonly accuse others; that, by naming greater than themselves, they may get some favour, and evade punishment; or to ease themselves, by procuring their Enemies to partake with them in misery and torment. For this reason he will have no faith given to such persons, although they produce Commonitories, or secret Mandates from their Associates whom they accuse."

A. D.

423.

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92. So much did the ancient Romans attribute to Modesty and Gratitude, that *Liberti*, or who, being formerly Slaves, had been made free, through the goodness and bounty of their Lords, were obliged to demean themselves thankfully, and with respect to them; so that, if they offered them any considerable Offence or Injury, they had an Action against them, called *Actio Ingrati*; whereby they recovered them again to their former Bondage and Slavery. *Constantine* the Great had reinforced and quickened the Law, as to Ingratitude against Patrons themselves. But now *Honorius* farther extends the penalties of it to that against their Heirs; and that in such terms, that these should not only not be heard if they accused their former Lords, but be bound to shew the same reverence to the Heirs, as to the Manumitters themselves; and, that the Action should as well belong to them as to the Patrons; and if the *Liberti* presumed to accuse them, they should be obnoxious to the same punishment, as if they had accused their Patrons, as to any Crime but that of High Treason. Now, as to Heirs, *Honorius* understood all others, as well as Sons. *Valentinian* the third afterward thought fit to take from them all indifferently, except the Patron, the Action of *Ingrateful*, and leave them to Common Law, or that of *Injuries*; but, as to Accusations, he distinguished betwixt the Children of the Patrons, and their Remote or Foreign Heirs; forbidding only that they should against them bear Testimony in any matter. So, of old, by virtue of the Law, *Ælia Sextia*, it was only permitted to Sons, or next Heirs, to accuse their Father's *Libertus* of Ingratitude, although the *Libertus* could not implead any remote Heir of his Patron, without an Edict first obtained to enable him. But, as to what is said concerning Accusations, the case of High Treason is to be excepted. In others, *Liberti* had been wont to be produced against their Patrons. But *Honorius*, by another Branch of the same Constitution, expressly forbids that they either voluntarily impeach them, or be produced as Witnesses against them.

L. L. 1. 2. de Lib.
bertis. C. de Inven.
Libertis. C. de Lib.
Lib. 4. tit. 11. C. de
Lib. 3. C. de Lib.
C. de Lib.

L. de Ne. p. 10. C.
de Ne. p. 10. C.
L. 12. C. de Lib.
L. 12. C. de Lib.

C. de Lib. 3. C. de Lib.

rius dieth.

Character.

93. This year some unfortunate differences fell out betwixt him and his Sister *Placidia*, which flew to that height, uncertain it is upon what occasion, that being suspected by him for inviting Enemies into the Empire, she desired leave to depart with her two Children, *Valentinian* and *Honorius*, into the East, and was kindly received by her Nephew *Theodosius*, though formerly he refused to own *Constantinus*, her Husband, for Emperor. Not long after their leaving of the West, *Honorius*, her Brother, left this World, dying in the Autumn of a Dropsie; though, as to the day, Writers do something differ; some assigning the fifteenth of *August*, others the twenty seventh: some say, he died at *Rome*, and was buried at *St. Peters*, in the one and thirtieth year of his Reign, if we reckon from the time he was made *Augustus* by his Father, whom he outlived about twenty eight years, and about seven months; and lived, in all, about thirty nine. His Character is various, according to the Humours and Affections of persons. The Greek Historians, or those that wrote of the *Byzantine* Empire especially, cannot afford him one good word. Those that lived in his own time commend him for his Constancy in the Orthodox Christian Religion, and esteem his good success as given upon that Account. And indeed, his Success was rare against the *Barbarians* and Usurpers of his time; of whom, by his Captains, he had the better at last: and no Christian Emperor is found to have, by his Officers, extinguished more Rebellions. And, though he himself did not fight, yet he had so much courage as to oppose and punish his greatest Captains when offending; nay, even *Stritcho*, his Father in Law, whom he neither spared, nor his Family. Yet however, his Reign was unfortunate, in that *Rome* was first of all now taken by the *Goths*; the *Huns* invaded *Pannonia*; the *Vandals*, *Alans*, and *Suevi* pierced into *Spain*; and the *Goths*, having formerly invaded that Country, fixed in *Gall*; where also, the *Burgundians* seated themselves.

94. Many Laws there are in the Code of *Fustinian*, which bear his Name as well

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Some Laws
made in his
time without
Note of time.

as that of *Theodosius*, but without any Characteristical Note of *Consuls*, or day, or month. One of these we cannot but take notice of, as made in favour of Illustrious Persons, and respect to their Dignity. This excuseth them from giving in Bonds, "or putting in Bail, either in a Civil or Criminal Action; but requires of them a Juratory Caution or Oath: which, if they neglect, and, contrary to the said Oath, they and their Proctors be absent; in Civil Matters the Judge shall proceed according to Law; that is, to put the Plaintiffs into Possession. In Criminal Causes they shall be denied all Privileges arising from their Dignity, as perjured persons, and left to what the Law ordains for other persons in such cases." But, except the Sentence of the Judge be passed in Writing, they shall not be bound to any Appearance." For, the Wisdom of these Times thought fit, that Sentences should be read or recited out of a Writing, as thereby more solemn and certain, and not subject to the extraordinary Extravagance of a Judge. That this was made by *Honorius* we cannot say; but the Subject of another perswades us that it was ordained for his Western Part of the Empire, which stood most in need of Soldiers; and consequently, had the greatest reason to see that they should not be defrauded of their Provisions. In order to this the Emperors ordain, that, If their Corn and Provisions be drawn off to serve the ends of others, such as traffick for them, if of greater Quality, shall undergo Proscription with the loss of all their Goods; and if of meaner condition, shall forfeit their very Lives."

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L. 17. de
testibus,
Jus. lib.L. 4. Que
nave non p
C. Cod.
lib. 4. tit.

S E C T. IV:

The Fourth Step to the Ruin of the Empire in the West.

From the Death of Honorius, and the Government of Placidia and her Son, to the Irruption of Attila and the Huns into the Empire.

Containing the space of Nineteen Years.

- I. **B**Efore *Honorius* his death, *Placidia* and her Children, as we said, upon some Misunderstandings, had betaken themselves to *Constantinople*. *Honorius* left no Children to succeed him, nor designed any other to the Supreme Dignity before his death: which advantage so far encouraged one *Fohn*, a Man of obscure Original, but *Prefectus Prætorio*, as we have seen, in the foregoing year, who had formerly served as *Principal* of the *Notaries* or *Scribes*, as to take upon him the Imperial Title. He sent away presently his Ambassadors, as he would have them accounted, to *Theodosius*, to desire that he would own and declare him Emperor. *Theodosius* had, before this, received the News of his Uncle's death, but, for urgent reasons, concealed it, as *Socrates* relates, till he had sent a Power of Men to *Salona*, a City of *Dalmatia*, to secure the Borders of the Eastern Empire, and repress any that should usurp or be tumultuous in any of these Quarters. *Cedrenus* writes, that, upon the report of *Honorius* his death, there was a Tumult at *Constantinople*, which continued six days together: he gives us no reason or occasion of it, but we may suppose it in favour to *Placidia* and her Children. At first *Theodosius* did not much regard the Usurpation of *Fohn*, as judging him a Man altogether inconsiderable. But, when he saw him so bold as to send to him, and considered the greatness of his Demands, he was much incensed; and, treating his Messengers very roughly, sent them away with as displeasing an Answer.

Fohn, the late
Prefectus Præ-
torio, usurps.

Lib. 7. c. 23.

4. Answer. *Fohn* was not much concerned at the report of it, being encouraged by two notable Men for Wisdom and Valour; by the Assistance of whom he had taken the Imperial Habit. The one of these was *Castinus*, not long since returned out of *Spain*, and designed *Consul* for the following year. The other *Ætius*, the Son of one *Gaudentius*, born in *Scythia*; who arrived at the Dignity of *Magister Militum*, and married an *Italian* Lady, Noble and Rich. *Castinus* he made *Magister Militum*; and, on *Ætius*, who had been Hostage both with *Alarich* and the *Huns*, and afterward was raised to be *Comes Domesticorum*, he conferred the Honour of *Cura Palatii*. Him he sent into *Pannonia*, with a great Summ of Gold, to purchase the Favour and Assistance of the *Huns*, with the Commanders of whom he was familiar; with farther Instructions, that if the Forces of *Theodosius* should march for *Italy*, he, with his Troops raised out of that fierce Nation, should fall upon their Rear, while he himself charged them in the Front.

2. For the Year of our Lord CCCCXXIV, *Victor* was *Consul*, and *Castinus* rather designed than really such, being the chief Minister of the Usurper. *Theodosius*, however he had conceived prejudice against *Constantius*; yet now, when a Stranger and Usurper interposed, was concerned for his own Flesh and Blood: and, having treated the Messengers of *Fohn* in a very disobliging manner (*Socrates* saith, by committing them to Prison; *Philostorgius*, by banishing them into *Propontis*;) he had so far provoked the Tyrant, that there was no going back; and therefore, he resolved to assist his Aunt, and Cousin *Valentinian*, as far as possible. On her he conferred the Dignity of *Augusta*, and on him that of *Nobilissimus* (or rather, confirmed what had been done by his Uncle *Honorius*) and sent them away to *Theſſalonica*, in order to prosecuting the War against *Fohn*; which he committed to the care and conduct of *Ardaburius*, and *Aspar*, his Son; with whom *Olympiodorus* joyneth *Candidianus*. After they were come to *Theſſalonica*, he sent thither *Helio*, the *Magister Officiorum*; who put upon *Valentinian* the Robe of *Cæsar*, and thereby invested him with that Dignity when he was not now above five years of Age. *Ardaburius*, to discharge his Trust, brought them to *Salone*: and there advising about the best Course that was to be taken, he himself resolved, with a great part of the Forces, to go by Sea to *Ravenna*, and fall upon *Fohn* altogether unprepared; appointing *Aspar*, his Son, to be a Convoy to *Placidia* and *Valentinian*, by Land, thither. And all things, at first, seemed to prosper and encourage them. But *Ardaburius* was, by contrary Winds, driven upon the Coasts of *Italy*, and forced to land in that place; where he was presently taken by the Soldiers of *Fohn*, and carried to his Presence. He being a Man, as *Procopius* tells you, of a mild disposition, insomuch, that he put no body to death during his Usurpation; or, as others say, out of desire to come to an Amicable Composition, kept him in free Custody, but treated him in an honourable manner; as designing, by his means, to procure a Peace. His Son *Aspar* had better fortune; and, with his Charge, *Placidia* and *Valentinian* arrived at *Aquila*; which, having surprized, they fortified: and, being ignorant of what had passed, expected to receive advantage from the Attempts of *Ardaburius*.

3. *Theodosius*, though he had his hands full this year, in providing for the Recovery of the West, yet employed his *Quæstor* in some things which he conceived would contribute to the welfare and advantage of his own District. For the maintenance of that ancient Bath in *Constantinople*, called the Bath of *Zeuxippus*, which served, not only the Citizens, but Soldiers; he ordained, that, Such Shops as were built in the *Porticus*, or Galleries about it, should pay their Rent toward the maintaining of the said Baths with Lights, and keeping up the Fabrick. Which Rent had, it seems, formerly been otherwise employed by the Curators of publick Works, or the Curators of the Commonwealth. As we find that about Churches, Books and other things relating to the Divine Worship, have been, and are still wont to be sold; so, doubtless, in these *Porticus*'s, such Materials as tended to promote washing or cleansing of the Body. This Edict was directed to *Severinus*, *Præfect* of the City, on the ninth of *January*: and six days after, as if the Conspiracy of *Fohn* had made the Emperor very credulous and suspicious, he sent another to *Maximinus*, his *Comes Sacrarum Largitionum*, whereby He forbad the use of Purple Cloaths made of Silk; whether all of that Colour, or the Ground, or the Embroidery only, as appertaining to him and his Family alone. And he commands, that whoever have such in their Houses, bring them in to the Treasury, upon pain usually undergone by Traitors. The Prohibition is large, All Persons of what Sex, Dignity, Art, Profession or Linage soever, being inhibited. Indeed, *Filius Cæsar*

A. D.

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Theodosius II.

Theodosius II. was born in the year 401.

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L. 42. de officio. publ. Cad. in. 27. l. 19. Cod. Just. Cod. de. Dat. 5. l. 1. Jan.

L. 2. de officio. publ. Cad. in. 27. l. 19. Cod. Just. Cod. de. Dat. 5. l. 1. Jan.

Theodosius II. was born in the year 401.

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had limited the use of Purple (which, in those days, was valued with Pearl and Gold) to Women in his time, which *Nero* expressly forbade; and, though *Aurilian* did in part permit it, yet afterward it was again prohibited to them. Stage-players also seem to have usurped the use of this Colour: and, if *Horace* does not mightily play the Poet, his Friend *Grosphus* was clothed with Wool which had received a double Tincture from the Fish *Murex*. However, the Emperors began, by degrees, to appropriate this Dye to themselves; in so much that though, if any one might have worn it, the *Præfetti Prætorio* might have had that privilege; yet, when the utmost that could be, was spoken of them, their Command was termed a Kingdom, or Kingly Power, without Purple.

Constantinople grown burthenfome to the Neighbour Countries.

4. *Constantinople*, by this time, was grown so great, that it was become a great Oppression to the Neighbour Countries. This was not only in matters relating to the subsistence of the Inhabitants, but to their very Sports and Pastimes. Of this *Isidore*, the *Præfett* of *Illyricum*, sent up a Complaint to *Theodosius*; particularly, how the *Curiales* of the ancient and famous *Delphos* were undone by being bound to contribute to the finding of Shows and Pastimes in that now Queen of the Eastern World. Indeed, other principal Cities had usurped in this manner, as we have formerly seen in *Carthage*, whither the Priests of other Cities were wont to flock at the usual Solemnities. But, as that practice was forbidden, so now *Theodosius* gave in charge to *Isidore*, that, By his Precepts he should give notice to all the Cities and Judges of *Illyricum*, that no Man should be bound to contribute towards the *Speëtacula*, or Shows of *Constantinople* (which, in imitation of *Rome*, the height of which she emulated, he calls *Urbs Aeterna*) but, every one be bound to discharge the Duties only of his own City, according to the strength of his Estate. And this he enacts, under severe penalties to be undergone, not only by such as should exact such performances, but also by the ordinary Governors of Provinces. Now, we may remember that the *Præfettship* of *Illyricum* the Eastern had two Diocesses included in it, viz. *Macedonia* and *Dacia*. In *Macedonia* were seven Provinces, in *Dacia* five; and, of the seven, *Achaia* was one, in which was the City *Delphos*; which possibly, took this Contribution the worse, because she her self had formerly had the Games *Pythia* celebrated in her Precincts, as *Nemæa* were at *Argos*. Within a few days after, *Theodosius* thought fit to reduce the Charge and Custody of the lesser *Laterculum* (of which formerly) to its ancient Office. It formerly had belonged to the *Quæstor*, but had been, of late time, removed to the Office of *Magister Officiorum*. Now, by two several Edicts, as we at present find them, the Emperor signified his pleasure, both to *Salust*, the *Quæstor*, and *Helio*, the *Comes* and *Magister Officiorum*; that, The Charge of the said lesser *Laterculum* should belong to the *Quæstor*; so as the names of all *Præfets*, *Tribunes* and the *Præpositi Castrorum* should be sent up from the *Scrinium Memoriae*, and entered by his appointment, according to the ancient custom.

He restores the lesser Laterculum to the Quæstor.

5. For the Year CCCCXXV, *Theodosius* being *Consul* the eleventh time, took to him *Valentinian Caesar* for his Colleague. The first five months of the year he continued at *Constantinople*, with great desire to hear of the good success of his Arms in the Western Countries. *John*, the Usurper, had, without much difficulty, drawn them all into subjection, except *Africk*; which he also attempted, and sent over an Army to get it by force into his power: but such resistance was made by *Boniface* (as the Letters betwixt him and St. *Augustine*, concerning this very matter, do testify) that all his Attempts were thereby frustrated. But his hopes, as we said, were very great, that, by Intercession of his Prisoner *Ardaburius*, the whole Affair would be composed, and he should enjoy in Peace what he so easily had obtained. *Ardaburius* had no such intention; but, finding him secure and negligent, and pleasing himself with this conceit, took the opportunity, as *Philostorgius* related, to ingratiate himself with certain Officers he had put out of Command, and thereby disoblige; and he sent word to *Aspar*, his Son, that, if he would come down with his Forces, there was no doubt but he might easily surprize the Tyrant, and do his business. *Aspar* was not backward to make use of the Advantage, but came speedily with his Horse, and found the Gate of *Ravenna*, where *John* then lay, open, as if his coming had been welcome and expected; and, after a little opposition made, as little it must be in such a Surprize and Consternation, he easily took him, and sent him away to *Placidia* and *Valentinian*: yet he adds, that he was betrayed by those that were about him, to which the Surprize and Affright they were in, might easily contribute. *Socrates* relates, that an Angel conducted *Aspar* through the Fens such a way as formerly had not been known. But

John the Usurper taken.

A. 4

Geogr. Germ. purpur. nre. au. —te. i. Auri. i. illu. Cæm. 15. Pæci. απδ?

I. 4. de culis. D. i. 1. M. i. i. Cod. 3. ut lo. tempon

L. L. i. Quæst. Just.

A. 4

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ct. 4. to so quick an end came this Usurpation, which was the more welcome to *Placidia* and her Son, if what *Olympiodorus* wrote be true ; that, after the taking of *Ardabarius*, *Aspar* and they remained in great sorrow and distress, and even despaired of their Fortunes at *Aquileia*, till *Candidianus* bestirred himself, and took in many Towns ; by whose Endeavours and Success, a foundation was laid for that cheerfulness which afterward followed.

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425.

ut to death 6. *Placidia*, though a Woman of very good Parts, yet in Government, shewed very much of that Sex and Constitution. At the sight of *Fohn* she fell into a passion, and presently commanded his Right Hand to be stricken off ; and afterward, that he should be beheaded. *Procopius* tells us, that, having his Hand cut off, he was set upon an *Ass*, and led through the Cirque at *Aquileia* ; where he was constrained to hear many things said upon the Stage, and to suffer many Abuses ; and at last, was put to death : A Man, he tells you, of a mild Disposition, of very good Intellectuals, one that knew how to value Vertue according to its desert, and in his Affairs used Temper and Moderation. However, such end have all Usurpers as he arrived at, after he had possessed the Purple eighteen Months. As his Sorrow afforded matter of Rejoycing and Triumph to *Placidia*, so her Nephew *Theodosius* could not but be well pleased with the occasion of it, though the Effects of his Joy put him upon better thoughts than going to the Theatre. Indeed, he was there when the News came to him ; but (*Socrates* is our Author) having received the Message, he told the people, that it now became them to quit those Sports, and go to another place. And to the Church they went, where they piously gave thanks to God for the Defeat of the Tyrant, which they ascribed to his Hand. Nay, so much influence hath the Example of a Prince upon his Subjects, that, as he delivers the Circumstances, they sang Praises with him as they went through the Cirque, continued all the day at Church, and the whole City seemed to resemble but one Temple. But, notwithstanding this rejoycing for the death of the Tyrant, there was more work behind for any thing they could know. For, *Atius* was still alive, and in Arms when *Fohn* was taken ; and, with a strong Body of sixty thousand *Huns*, after three days, came, and gave Battel to *Aspar*. And violent and bloody was the Fight, till he understood of *Fohn's* Captivity, which put him upon a resolution to contend no farther ; and, having made an Agreement with *Aspar*, he removed the *Huns*, that they might not oppress *Italy*. When all was over, *Theodosius* was resolved to make a Progress into the West, to conferr on *Valentinian* the Imperial Ensigns. And he went as far as *Thessalonica* ; but there falling ill, he was constrained to return ; but sent an Imperial Crown by *Helio* the *Patrician*, who set it on the head of *Valentinian*, being now removed to *Rome* by the way of *Ravenna*, on the three and twentieth of *October*.

See lib. 7. c. 24

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main, sub-
s.

7. The new Emperor or his Ministers, before this, had remembered well that best *Axiom* in Government, *A Fove Principium*. For while he was, as yet, but *Cæsar*, he introduced his Authority with matters concerning Religion, the design being to remove those Advantages the Usurper had given to Hereticks ; of which we shall insist in another place. And *Theodosius* seems to have been as well inclined towards Charity and Equity, considering how, in these dangerous times, the Estates of Persons were wont to be confiscated. Therefore he forbade all Judges, except those that were placed in the highest Power, though they had Authority to judge both concerning Life and Death (though they had *Merum Imperium*) to proscribe any person without consulting the Emperor himself, or to dispose of his Patrimony. And now it came into his mind, or he was prompted to it, to encourage the Profession of the Liberal Arts and Studies at *Constantinople*. He resolved to make a publick School, consisting of so many Professors ; or what we since call an Academy or University. But he found many of these in one. He found a confusion upon this Account ; there being many Masters that had their several Companies of Scholars, who, as ever in such cases, envying and maligning one another, there was danger that even the publick Peace should be disturbed. For, of old time, when Learning was not so generally encouraged, Professors of Rhetorick were wont to have their several Cells, or private places to teach in, in *Rome*, and other places : and this was permitted generally, till *Theodosius* considered, that it was best to reduce the Profession of all Liberal Arts into one Body. He was informed how many taught privately, and what tricks and devices were used to bring Scholars to the several Pretenders. And therefore, in the first place, He prohibited the practice of these Corner-creeper, under pain of Infamy ; yet, without taking away the liberty of teaching in private Families, so they pretended only to instruct

Imp Titod A &
Valentinianus
Ces. Gregio
Proc. Alvi. a.
Iost a. 12.

L un. Ne sine iust.
sa Principis, &c
Cod. Th. lib. 9.
tit. 41. L un. Cod.
Fist hinc inter-
polata est.

us
akes an Uni-
versity at Con-
stantinople.

L ult de Sordis
libri. 1. ubi in h.
homo Cod. Th.
et L un. Cod.
Iust cod ter.
Dat 3 Cal.
Mart.

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those of the same House. In the next place he declared the sons and numbers of his Professors, which in all should amount to one about thirty. In his Auditory, three *Roman Orators*, and ten *Grammaticians*; in the Greek Tongue five *Sophists*, (so he calls them, but the same with *Orators*) and also ten *Grammarians*. And because, as he saith, he would have Youth also to understand the more profound Learning, he joyns with them one who should explain the Depths of Philosophy, and two more to lay open the meaning of the Laws. And he further commands the *Prefect* of the City, to whom this Constitution is directed, that these Professors have their several places allotted to them wherein to read, that neither Readers nor Hearers disturb one another.

8. These places were the *Exedrae*, or Juttings out of the *Porticus* of the Capitol on the North Side thereof, which of themselves were convenient and large enough, and resembled our Chapter-Houses in the Cloisters of Cathedral Churches. On the East and West Sides there was no coming in out of the Streets, but certain Shops adjoining to the *Porticus*, formerly used for Traffick or Merchandise; and these, for the further convenience of the Professors, and those that belonged to them, he orders to be bought in at the publick charge. But whereas personal conveniences are most wont to affect us, he took the course to oblige thereby the present Professors, and by continuing their privileges upon such as should come after, to engage them to the same Industry and attendance. Besides the former conveniences, he thought fit to confer on some, who now professed in this University, the *Comitiva* or degree of *Comes* of the first Rank. Namely, on two *Greek Grammarians*, *Helladius* and *Syrannus*, of whom *Helladius* was a Man very eloquent, born at *Alexandria*, who wrote in commendation of the present Emperor *Theodosius*, and was the Master of *Socrates the Historian*. Besides these, there was *Theophilus*, a *Latine Grammarian*, *Martinus* and *Maximus*, *Sophists*, or *Greek Orators*, and *Leontius*, a Lawyer. These he declared, by virtue of his Codicils to be *Comites* of the first Rank, and to take place with such as had been *Priors*, who about this time were also put into the order of these *Comites*, and possibly out of respect to these Professors. But not only on them, but such as for the time to come shall be approved by the Senate for their good life, and for their eloquence and skill in Teaching, when they have industriously executed their several Charges of Professors for the space of twenty years, he confers also the same Dignity of *Comes* of the first Rank. Something, but like to this, had been formerly indulged to Professors, as appears by *Quintilian*, who speaks of his resting after twenty years; just as a respect was had to the Veterans Soldiers, who had completed that number. And in *France* at this day there is something remaining of it.

Makes Professors *Comites* of the first Rank.

Cassius banished, and *Arrian* advanced.

An Edict published in the Senate at Rome for composing the troubles of Italy.

9. For the following Year, the two Emperors were pleased to take upon them the Consular Ornaments; *Theodosius* the Twelfth Time, and *Valentinian* the Second, it being now the CCCCLXVI Year of our Lord. *Theodosius* spent the beginning and end of it at *Constantinople*, and some of the Summer (at least) at *Nicomedia*. *Valentinian* continued at *Rome* till the Month of *March*; and his Mother considering how *Cassius* had assisted *Julian* in obtaining the Sovereign Command, sent him into Banishment; but as for *Arrian*, she not only pardoned him, but conferred on him the Dignity of *Comes*, because he had caused the *Flams* to avoid *Italy*, by the strength of whom it was in his power to have made great disturbance. They being removed, much disorder and oppression removed with them; but as all Usurpations afford matter for Accusations, and either punishment, or Acts of Grace and Oblivion; so happened it at this time, and such disquietness thereupon through the clamour and importunity of Informers and others, who begged forfeited Estates, that the Government was obliged to take some care for quieting and purging these fermenting humours. This was by an Oration directed to the Senate in the young Emperor's name, and of *Theodosius*, being said on the third of *January* to have been read and published in that Assembly, by *Theodosius* the *Primicerius* of the *Notaries*. By this all Informers are prohibited, and put to silence, who were wont by their Accusations to bring innocent persons in to trouble. And for as much as in all such Hurly-burries, persons of mean fortune and condition desire to carve out for themselves such shares as the Changes of Affairs may present as possible to their endeavours: during this disorder, Slaves had forsaken their Masters, and set up for themselves under protection of an Usurpation, which is wont to give indemnity to all complying persons.

10. To give to all persons their Dues, all Slaves are ordered to be restored to their

A. D.
425.

I. ult. a
bus p. u.
Cod. Th.
Cod. J.

I. ult. de I
sord. qu. 1.
in B. Const.
nop. Cod. 7
tit. 21.
L. un. Cod. 7
hinc int. 1
eff.

A. D.
426.

Theodosius
12, or *Valentinianus*
2, *Cod.*

act. 4. their Lords, against whom they had rebelled. And the *Senatorial* order which also had been much impaired by innovations in their Privileges and their *Forum*, to be restored to its former Dignity and Lustre; especially the Consuls, who it seems, had been lessened and disrespected by *Fohn* the Usurper, as well as the Churches, which were also restored to their ancient Dignity and freedom. And whereas upon his being created Emperor, the Senate had voted a quantity of the Gold to be presented him, called *Aurum Oblatissimum*: *Valentinian* by this Constitution remits it in part to them, and part of it he gives to the City of *Rome*, where he now resided; and which, as otherwise appears, had been in a manner desolate, during the usurpation. But amongst all the inconveniences which it suffered, none were more insufferable than the insolence of the Farmers of the *Res pectate*, or *Domain* of the Prince, whom *Fohn*, as the matter makes probable, incouraged to all excess, that they might willingly turn Tenants to himself. They were grown to that height of impudence, as to assume to themselves a Girdle, or sort of Dignity of *Militia*; so as none dared to look them in the face, or open their Mouths against them. When any suit or controversy arose concerning the Lands of the *Domain*, they scorned to go to trial according to the usual course of Law, and stile of the Courts. They were so bold as to intermeddle in the Suits and Controversies of other Men, and by affording their Patronage to disturb the ordinary course of proceedings. In the execution of Sentences they would assist. And none more forward than they to inform against their Neighbours. The Government thought it self so much concerned in Honour, and to be reflected on by this miscarriage of these Dependents, as to declare, that sorts of Men subject to the Laws, by which the Princes themselves were bound or obliged; and that none of these Farmers of the *Domain* carry themselves higher than other Subjects, but live in common right and privilege with them; that none of them pretend to any Dignity or Power, but all sue, and be sued according to what was wont to be practised by all persons in like cases; neither offer any Patronage or Protection to the disturbance of any in possession, meddle with the Executions of any Sentences; thrust themselves into any private or public Affairs, nor disturb any Families by turning troublesome Informers.

11. The Government being returned into the true Channel; as if, during the late Usurpation, the Laws had also been out of order, those who sat at the Helm were persuaded to make some alteration and reformation of them also in certain particulars. This was attempted by another Oration directed to the Senate; in the former part of which a survey is made of all the Law, and a Repurgation of Imperial Constitutions, so as to declare what Rescripts of Princes should be followed; and also what Answers of Lawyers should in Courts be produced and alleged for the decision of Causes, and be received and admitted for Law. As to Constitutions, it is cautioned in the first place, that such Rescripts as were sent out to answer to the Relations, or Suggestions of Judges, of Bodies Politick, Messengers, Cities, Provinces or Courts, should not be taken for general Laws, but only by those whom they concerned, and to whom they were directed; in behalf of whom, when given out, none should dare to retract them, or craftily to interpret them, under pain of Infamy; or obtain any Rescript to revoke such privileges, or to admit such revocation; or make any report back to the Prince, under colour of Ambiguity, upon pain of a Mulct of thirty pounds of Gold to be incurred. Now these Rescripts shall be taken only to concern the Parties or Bodies to whom directed; but in case they be sent as an Oration to the Senate to be confirmed, or there recorded; or if they be called by the name of Edicts, whether they be published as the Prince his own spontaneous motion, or upon some Petition or Relation made; or if they be commanded to be exposed to public view, or made use of, and to be extended to like Causes; or if they be termed general, then shall they be taken and received as general Laws, and; for such, observed by all persons, as well one sort as another for the time to come. To which may be added, if they were inserted into the Body of Law, which was done some time after by Imperial Authority. To be sure, we have it resolved, that Rescripts produced contrary to Law shall be refused by all Judges, except perchance there may be something in them which without indamaging any other person, brings advantage to the Petitioner, or is in the nature of a pardon to him. Nay, though a Rescript be obtain'd according to Law, yet if it be procured by a false suggestion, it shall be of no force, but the Liar be severely punished by the Judge: which Ordinations were part of this Constitution whereof we speak.

M. D.

426.

L 33 d Pet 11-
ori & c. col.
ff Auct a Col
jst ut lillona-
ca es horum
temporum pro-
pria
L 14. de Sena-
torib & Cod.
To.

L 12 d Pet 11-
ori & c. col.
ff Auct a Col
jst ut lillona-
ca es horum
temporum pro-
pria
L 14. de Sena-
torib & Cod.
To.

L 12 d Pet 11-
ori & c. col.
ff Auct a Col
jst ut lillona-
ca es horum
temporum pro-
pria
L 14. de Sena-
torib & Cod.
To.

L 7 de precib.
Ino off. iust.
Cod Just lib 1.
tit 19.
L 5 de con-
tra iur. & c.
Cod. Just l 1.
tit 22.

Sect. 4.

12. In the next place it passeth an Imperial Judgment, concerning the Writings of such great Lawyers, as were wont to be alleaged, and who had long before departed this world. And first of all it confirms those of *Papinian*, *Paulus*, *Gaius*, *Ulpian* and *Modestinus*; so as they may be recited, and obtain in Judicature; according to what had been practised by former Princes, who in their decisions were wont to follow their Advice, in matters which some or other humane reason must determine. In the next place, it raises the opinions of several eminent Lawyers, which the five forenamed do often quote and recite, which were *Scævola*, *Sabinus*, *Fulianus* and *Maxellus* by name, besides others; the Writings of whom were also extant at this time. But as in all ancient Writings, by reason of Transcription by several Copies, faults and mistakes are wont to arise; therefore the Law ordains, that Copies be compared, and the most authentick be alleaged; as in those days it was the desire of all Orthodox Christians, that the Books of Holy Scripture might be revised and examined for the detection of Heresies and Errors; not to mention other Writings. Now in case these Lawyers disagreed, it is ordained, that the opinions of the major part shall carry it, so as the opinions of Lawyers shall not be weighed, but numbred. In case there be an equal number produced; if *Papinian* be of that number, his opinion shall prevail; a thing not only practised in Law matters, but in Divinity toward *St. John Chrysostom*; and in latter days, toward the President or Speaker of an Assembly; but so great reverence did all Ages give to the vast perfections of *Papinian*, upon whose Works such Notes as *Paulus* and *Ulpian* his Scholars had made, this Constitution also invalidates, as not long before had been done. If it should happen, that the opinion of all Lawyers should be of the same number and value, it is left to the Judge to prefer which side he in his judgment shall think fit. So great (as deserved) was the opinion had of *Papinian* in this Age; and yet even in *Augustus* his time, great reverence was given to the Writings and Answers of famous Lawyers, but they obtained not that authority which this Constitution doth invest them with, and which they enjoyed in whole, till such time as their Books were surveyed upon all Subjects, and such parts of them taken into the Pandects as best seemed good to *Fustinian* and his Compilers.

Theodosius enacts something against High-way-men.

In behalf of some conditionals.

13. *Theodosius* at *Constantinople* in the mean time was not wanting to give orders in such Affairs as required his directive or reforming power. The ways and passages were now so beset with High-way Men and Thieves, as sharpened him to something further severity, than the Constitutions of his Predecessors did require. It became a question amongst his Judges, how the Estates of such persons being condemned should be disposed of; to which he answered in an Edict directed to *Hierius* the *Præfectus Prætorio*, that in case they had children, one half should be confiscated, and the other go to them, and to them alone he assigns it; not to other Kindred, not to Father and Mother, though this had by other Laws formerly been done. But in case the condemned person was a *Decurio*, another course should be taken. For if he had no Children, the *Curia* should succeed him as to the whole, and take care some way for discharge of his Services. If he had Children, and all Sons, they should succeed to the whole Inheritance, provided, they stood obnoxious to the services of the Courts. If only Daughters, they should take one half, and the *Curia* the other. If of both Sexes, the Estate should be equally divided betwixt the Males and Females. Such Offender this Edict styles by the name of *Latro*, or such an one as is involved in professed and manifest crimes, which hints to us, that in the Eastern Parts at this time in deserts and such places there were *Rovers*, which as nowadays the *Banditti*, and in former times the *Isauri*, fell down in Bodies, upon not only Travellers, but Countries; and possibly, in allusion to this, Princes were wont to term them *Latrones* that had invaded the Purple, and whom they had defeated and put to death. For contrary reasons he was inclined to extend a little more favour than had formerly been granted to such as because of their Birth or Original were for ever obnoxious to serve as *Gymnecarii*, *Monetarii*, *Arvileguli*, or the like, in Works which were under the Inspection of the *Comes Sac. Largitionum*. By former Laws they could not recede, or be free from their companies or condition. But now he thought fit it might be done by the grace and favour of the Prince, provided, another were substituted in the room of him that was freed, which should be every way fit, and approved by the said *Comes*; and leave his Estate and his Posterity in that Company, Service and Employment.

14. About the same time he grew sensible of some Inroachments made upon his

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Lun. de Reg.
fis Prudent.
Cod. Th. lib.
tit. 4. Alaj
Cod. Jul. i
temporaria.

L. ult. de
Proscriptis
Cod. Th. &
Cod. Jul.
interpolat.
Dat. 10. C.
Fib.

L. 16. de
legulis,
Th. & L. i
Just. cod
Dat. 7. C.
Mart. de
Com. S. L.

Sect. 4.

Against the
encroach-
ments of his
greatest Offi-
cers.

his Imperial Prerogative, and publick liberty by some of his greatest Officers. The *Præfæti Prætorio* not content with the privilege they enjoyed, to have the Decrees of such Messages as were brought from Cities and Provinces to be sent unto them, that by them they might be represented to the Prince, took upon them also to make Answers, whereby it came to pass, that the Emperor himself knew nothing of the Grievances of his People, and the Messengers being never admitted to his presence, went away as they came, having only their labour for their travel: we have ground to suspect, that *Hierius*, now *Præfæct* of the *East*, was guilty of this Misdemeanour; for the Edict directed to him hereupon is sharp; telling him, that he knew very well, that the Petitions and Decrees of Cities, and the Desires of the People were to be answered by the Emperor himself, and that the Messengers ought to be admitted into Consistory, and honoured with the sight of him, and have free liberty to speak and declare whatever they had in Commis- sion from those that sent them. He also reprehended him for admitting persons into his Office, without being first approved by the Prince, and having received Letters of Approbation from the sacred *Scrinia*; charging him, that this be observed for the time to come, not only in his own Officers, but in those belonging to others under him, of the Dignity of *Spektabilis*, as the *Præconsul* of *Asia*, the *Comes* of the *East*, *Præfæctus Augustalis*, and the *Vicars*. Moreover, he commands, that the same course be observed, as to the *Trenarchæ*, the *Actuarii* and *Cornicularii* of the Fleets belonging to *Constantinople*, and also to the *Thymela*, and to the *Curule* Horses, appertaining to the several Cities, as the custom had formerly been. Those Fleets must be no other but they that brought Corn from *Egypt*, or *Alexandria*, to the City, or other parts of the *East*; of which largely before.

15. The *Thymela* was the Stage, or Scaffold, where Dancings and Tricks were shewn, which were so common, not only in the great Cities, but also throughout the Provinces, that there were *Actuaries* or Clerks that took an account of them, as others of the *Curule* Horses that ran courses in several places. Of the like presumption was guilty *Theophilus* the *Præfæct* of the City, in admitting *Actuaries*, as also *Optiones* throughout all the Regions of *Constantinople*, and *Syarii*; of whom these provided Hogs-flesh for the Inhabitants, and the other took care for supplying the Soldiers that there kept Guard, with Provisions. And with them incurred also reprehension, *Acacius*, the *Comes Sacr. Largitionum*, as to the *Comites Thesaurorum*, and the *Thesaurenses* of the *Dioecesis*. All those he declares, the Prince himself ought first to allow off; and though he rejects not such as had already been admitted by them, he threatens them with incurring his heavy displeasure, if they offended again in the like sort, besides the nulling again of what they did. But toward the end of the Year, he cast his eye upon his best deserving Servants, and considering how from the third or last degree of *Comites* he had preferred ten years before the *Proximi Scriniorum*, and the *Comes Dispositionum* to the second in order; he now thought fit to allow them Robes, which *Acacius* was to give out to them, as others had according to their several qualities. And the *Præfæctus Ducenarius*, as he was termed, out of the *Agentes in Rebus*, as he had formerly been ranked amongst *Consulares*, as also the *Adjutor* of the *Magister Officiorum*, were now advanced to be equal in dignity with *Vicars* of *Præfæcts*, by two orders sent, the one to *Helio* by the Title of *Patritian* and *Magister Officiorum*; and the other to *Hierius* the *Præfæct*. Moreover, the same privileges that out of respect to Studies and Learning he had formerly conferred on the Advocates who pleaded in the Court of the *Præfæct* of the *East*, he now extended to those who attended in that of the *Præfæct* of *Constantinople*.

Urgent to
deserving
ants.

16. The Year that followed, or the CCCCXXVII of our Lord had two Subjects for Consuls. The one was *Hierius*, who was now both Consul and *Præfæctus Prætorio*, and this very Year repaired or dedicated the Baths at *Constantinople*, called the Baths of *Theodosius*. His Colleague in the Consulship for the West was *Ardabures*. In *Italy*, as we said, *Ætius* was received into favour, and *Castinus* sent into banishment, after the suppression of the Tyranny. *Castinus*, now, say some, enraged thereat, and not caring what he did, or what became of him, so he could but make disturbance, with a great power of Men invaded *Africa*, and thence purposed to drive away *Boniface*, who so well defended his ground, that the Aggressor himself was forced to retire. And *Ætius*, though possibly he hated not *Castinus*, yet he hated *Boniface*, whose good success and fame stirred in him so much envy and emulation, that he cunningly insinuated and persuaded *Placidia*, that he

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L. de Legi-
tis, Cod. 7. D. de
Cal. Jun. Nisco-
midie.L. de Præ-
fæctis, Cod. 7. D. de
7. D. de Præ-
fæctis.L. de Præ-
fæctis.L. de Præ-
fæctis.L. de Præ-
fæctis, Cod. 7. D. de
Præfæctis.L. de Præ-
fæctis, Cod. 7. D. de
Præfæctis.L. de Advoca-
tis, Cod. 7. D. de
Advocatis.

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427.

L. de Præ-
fæctis, Cod. 7. D. de
Præfæctis.L. de Præ-
fæctis, Cod. 7. D. de
Præfæctis.

Sect. 4. he purposed to revolt, and setting up for himself, to make *Africk* the Seat of his own Empire. There was no way therefore but to abdicate his authority there, and to recal him home; but this would not satisfy the design of *Ætius*. He persuades her to recal him, but then to drive all into extremity, and raise an utter feud betwixt them, he writes to *Boniface*, and as his Friend, adviseth him not to come, for there were designs against him, and he would indanger his Head, if he came within the reach of the present Governours. *Boniface* believed him as his faithful Friend, and following his advice, refused to quit his place of command and security; whereupon *Placidia* concluding all to be true which had been insinuated by *Ætius*, resolved to make War upon him as an Enemy. But for *Ætius* she had other Employment; for him she sent against *Theodorich*, King of the *Goths*, who at that time besieged *Archilla* in *Gall*, having been encouraged by the dissensions of the *Romans* to an open Revolt. But however, he was constrained by the *Roman* Soldiers to quit the Siege, through the means of *Ætius*, who took into his society and friendship *Avitus*, a great Man amongst the *Arverni*.

Placidia upon false suggestions of *Ætius* quarrels with *Boniface*.

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Procopius *Vandalum*, lib. 1.
Paulus *Diaconus*, lib. 14.

The War against *Boniface* goes on.

17. But against *Boniface* a War being resolved on (through the envy of *Felix*, a *Magister Militum* in *Gall*, as *Prosper* writes) three Commanders were chosen, and sent against him, viz. *Mavortius*, *Galbio* and *Sinox*. *Boniface* contained himself in *Carthage*, where he resolved to sustain the shock; and there he was straitly besieged, till such discord arose betwixt the *Roman* Generals, that *Mavortius* and *Galbio* were killed by the practices of *Sinox*, who now left alone, was utterly unable to grapple with *Boniface*; for he procured him quickly to be dispatched; and this happened without the loss of one Man on *Boniface* his side, if we will believe the Letters which are said to have passed at this time betwixt him and *Augustine*, the Bishop of *Hippo*, with whom hitherto he held good correspondence, till the malice of his Enemies, and his indignation thereupon turned him into Acts which that good Father could not but disapprove. For, *Placidia* hearing of the ill success her former endeavours had had, yet resolved to renew the War, and appointed *Sigevultes*, one of the Dignity of *Comes* to be the Prosecutor. *Boniface* concluding with himself, that he should not alone be able to grapple with the power of the Emperor, resolved to draw in others to his party. One Article of his Charge had been, that being commanded into *Spain* upon some business by the Government, he had there married a Relation of the Kings of the *Vandals*, and had contracted a League and Affinity with that People. Whether this was true or false, being as truth believed, he resolved his Enemies should have some true cause for their assertion, and either went himself back again into that Country, or as *Procopius* writes, sent some of his most faithful Friends, who contracted an agreement with the two Sons of *Godegisile*, who died the year before. These were *Gontharis*, or *Guntharius*, and *Gizerich*, or *Genferich*, with whom was agreed, that they three should share *Africk* amongst them, and should joyn together upon occasion to defend each other. By virtue of this Agreement the two Brothers quitted that part of *Spain* which lay nearest *Africk*, and in which they were succeeded by the *Visegoths*, and with their *Vandals*, to whom *Paulus Diaconus* joyns the *Alans*, passed the Straits of *Gibraltar*, as now we term it, to the great mischief of that Country, followed by great Revolutions, which continued nigh an hundred years.

He contracts an Alliance with the *Vandals* in *Spain*.

The *Vandals* thereupon pass into *Africk*.

Which they miserably waste with Fire and Sword.

18. The Year CCCCXXVIII had for Consuls *Felix* and *Taurus*. *Theodosius* made his Abode at *Constantinople*, and *Valentinian* at *Ravenna*. The *Præfecti Prætorio* were for the East *Hierius* and *Florentius*, who succeeded *Eudoxius*; and *Volusianus* in the West. This Year was too memorable in regard of the miserable wasting of *Africk* by Fire and Sword. For the *Vandals* finding therein no resistance, but rather encouraged and protected by the Army of him who invited them into the Country, executed that vengeance upon the miserable Provincials, which their many and enormous crimes, attested by the Writers of this Age, had pulled down upon their Heads. At this Fire and Smoak all *Italy* stood at gaze; and some of *Boniface* his Friends in *Rome* admired exceedingly, knowing his former Loyalty, how he should be transported to an Act so far destructive to the Empire. And *Placidia*, her anger was so much cooled by his heat, that she ordered some to go to *Carthage*, and feel him about the matter, who coming to him, found him free and open enough, insomuch that he gave them the Letters written by *Ætius*, with which they returned, and shewed *Placidia*, that he had erred not through his own fault, but the treachery of another person. She had the temper to conceal her indignation, and dissembled the matter with *Ætius*, who had

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Felix & *Taurus*,

Procopius.

an

ect. 4. an Army now at his devotion, when matters stood in so ticklish a posture. But to *Boniface* his Friends she opened her grief, and exceedingly complaining of the fraud of *Etius*, besought them, that if they could they would persuade him to pass all over, and hinder the *Barbarians* from further wasting the Country. He was inclinable enough so to do, and by a great sum of Money indeavoured to divert them from further spoiling the Country. But they having got a taste of the sweetness of it, would not now be taken off, and returned him scoffing language, which provoked him to blows; but in the Engagement he was worsted, and fled to *Hippo*, a strong Maritime City of *Numidia*. To the place, *Genseric*, the Bastard Son of *Godegisel* laid Siege, who alone reigned over the *Vandals*, after the death of his Legitimate Brother *Gunthar* or *Gunderich*, who some say was extinct one way, and some another. But whereas *Procopius* writes that *Placidia* durst not take notice of any thing to *Etius*, because he had an Army at his Devotion: to this we may add, that with that Army this Year he got a Victory over the *Franks*, and recovered from them a Region of *Gall*, lying near the *Rhine*. So write *Cassiodorus* and *Prosper*; and *Sidonius Apollinaris* upon occasion of *Majorianus* his being with *Etius* at the Fight, speaks of a Wedding that then happened amongst the *Franks*, how they fought at a Bridge, and the Bride was taken prisoner. And he describes the Garb and Fashions of the *Franks*, as then they were, which in our History of the *Franks* is to be observed.

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cy refuse to
stopped by
usage, who
led them

ndosius con-
sists the
ms of Law.

rovides for
e Curia.

19. *Theodosius* at *Constantinople* was still at his ease, as to any hostile oppositions. But being told of several things that in the State might be amended; and of his own inclination being prone to contract the Forms and Solemnities of the Law, by a large Constitution directed to *Hierius*, he now this Year attempted it in matters relating to Suits, Marriages, Portions and Joyntures, as to which he took away "the scrupulous Quirks and Observances, and ordained, that any Words and Rites honestly and innocently spoken and made, should suffice to make them good and effectual." Not that these Words and Rites were in themselves good or evil; but were rendred to be such by the several Temperaments and Constitutions of times, which are a sufficient Warrant, nay, an urgent motive for repealing of Statutes, as all Ages and all Nations have taken notice. *Valentinian* lately had made a Reformation, as to Laws; and this of *Theodosius* was as it were a *Preludium* to that Discrimination of Constitutions, which shortly after followed. We have not of a long time given any account concerning the *Curiales*, or such as were obliged to the services of the Court, the emoluments of which, now again this Year *Theodosius* indeavoured to promote. In case any Estate came from a *Curialis* by succession to him, as dying intestate; if it consisted in Moveables, the Goods should be sold by consent of the *Curia*, and the price laid out in purchase of Lands to be let to responsible persons. And if the *Curialis* had any Heir who was not a *Curialis*, either as to the whole, or part of the Inheritance, yet a fourth part thereof should be granted to the *Curia*. But if any Possessions of these *Curiales* had come by lucrative causes, as by Legacy or Gift to any Stranger, he must pay the sixth of the profit for every parcel of Land, which was as much more as formerly had been required. But we see how the diversity of times brought in a diversity of Imperial Sanctions; and yet this should not prejudice any Corporations, in which, either Custom, Agreement, or Necessity required any larger Proportion.

In Panegy. Ju-
lio Valerio Ma-
joriano dicto.
p. 294.

L. l. 8. de Chrono-
mol. L. l. notata
quas vide.

L. 2. de prædiis
decurionum,
Cod. Jus. lib.
10. tit. 33.
L. 1. Quando &
quibus quarta
pars debetur, &c.
Cod. Jus. lib.
10. tit. 34.
L. un. Cod. Th. de
imponenda
lucratiuis de-
scriptione, lib.
12. tit. 4.

Vide l. ult. de
Senatorib. Cod.
Th.

L. 14. de metal-
lis. L. l. 16. 17.
18. 19. de Me-
dicis & Profis-
sionib.

20. Three years before *Theodosius* had found reason to deny Immunity from Quarters to all persons of all Degrees and Dignities living in *Constantinople*, when he and his Court resided there, their own dwelling Houses only excepted. But he did not think then of his *Archiatri* and his *Professors* he had founded in that City, to whom he had formerly confirmed the privileges granted them by former Princes, and exemption from services and charges, as well *Senatorial* as *Municipal*, when they had arrived at the first or second degree of *Comes*, or at higher Honours, which privileges were extended to their Wives and Children. But being put in mind of it the last Year, by an Edict inscribed to *Helio*, the *Magister Officiorum*, he had declared them exempt from the Burthen of the said Quarter and Entertainment. Moreover, having this very Year declared all of *Senatorial* Rank to be subject to the payment of the *Glebalis Collatio*, except such persons as he mentioned in his Constitution (as the *Notaries*, *Silentiarii*, *Decuriones*, and those who from among the *Agentes in Rebus* had aimed at the Degree of *Ducenarii*) now five or six Months after, calling to mind, that the *Archiatri* or Physicians of his Palace, had not been exempted by name, he declared his will and pleasure to Pro-

Sect. 4.

He gratifies his
Physicians.

calus the *Præfekt* of the City, that if they had arrived to be *Comites* of the first Rank, or higher, they should be in an especial manner discharged, and held free from the *Glebalis Collatio*, as formerly had been granted by Imperial Constitutions, any thing in the late Law, provided notwithstanding.

A. D

428

Genseric goes
on in wasting
Africk.

Courtes taken
by Placidia to
obviate his
Attempts.

21. The following Year is inscribed, *After the Consulship of Felix and Taurus, as all so Florentius and Dionysius being Consuls*; being of our Lord the CCCCXXIX. *Valentinian* had his Abode at *Ravenna*, and *Theodosius* at *Constantinople*. And all this Year *Genseric* persisted in the wasting of *Africk*, committing all sorts of Hostilities and Outrages therein, while in the mean time he was carrying on the Siege of *Hippo*. In these dangerous times to provide as well as she could for the security of the Empire, *Placidia* preferred *Felix* to the honour of *Patritian*; and *Ætius*, notwithstanding what had lately passed, to the Dignity and Power of *Magister Militum*. And because Money is the Sinews of War, and the Provincials were backward in paying in their Tribute, an Edict was issued out to *Volusianus* the *Præfekt*, whereby a years time was given them for the payment of it; and if that was not observed, then the payment thereof, which was destined to no other end than the security of themselves should be exacted by the Governors of the Provinces. And as it was Justice at all times to repress the violence and rapacity of *Susceptors*, or Receivers of the Tributes, so most seasonable now, when there was more occasion than ordinary for Contributions. *Volusianus* therefore, to whom, as *Præfekt*, the matter of Tribute belonged, was enjoined to see, that when it was offered it should be received, and that at the peril of Governors of Provinces, and their Officers, just Weights should be used when it was received in Mass; that the *Susceptors* should deliver to the *Possessors* exact and full Acquittances: and report should be made of what came into the Treasury, not only to the two *Comites*, or High Treasurers, but also to the *Præfektus Prætorio* himself, who might by his own Accounts easily see what was due to be paid. In case any of the *Palatine* Officers, or those belonging to the Treasurers intruded themselves, and would be meddling, leave is given to the Possessor, though he be in arrear to repel them; and if he be not able to do it, they shall be punished by the Treasurers; and if they fail through the procurement of their Officers, then shall it be done by the *Præfektus Prætorio* himself. This was greater Indulgence than had been lately shewn to the Provincials of *Africa Proconsularis*, who had sent one *Bubulcus*, a *Comes*, to complain how they were harrassed and oppressed by the *Compulsors* and *Optiones*. In answer to whom, *Celer* the *Proconsul* was ordered to restrain these Men, and give the Provincials four Months to bring the Money in themselves, to the Capitol or Castle of *Carthage*, which if they did not in that term, then the afore said Officers were to be let loose upon them.

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Florentio
Dionysio

L. 35. de
na & Tit.
Cod. Th. A.
Cod. Just. I.
16. Cal. A.

L. 32. de
sceptorib.
Cod. Th.
L. ult. Cod.
cod. tit.

L. 34. de
na & Tit.
Cod. Th. A.
Cod. Just.

Yet more
complaints out
of Africk.

Very favoura-
ble Answers.

A modest E-
dict.

22. Although the Barbarous Enemy was now raging with all sorts of Hostilities in that Country of *Africk*, yet were there Questions and Contentions among themselves; and now it was doubted to whom Appeals should lie from the *Rationalis* in causes relating to the *Domain*, or *Res privata* of the Prince. To save the Provincials labour and trouble, *Celer* was impowered as *Proconsul* to receive all such Appeals, except they related to Pensions, which were paid out of the *Emphyteutical* or *Patrimonial* Lands, or to Estates that were begged; for these were matters which so nearly concerned the Office of the *Comes Rei privata*, that no other could properly have cognizance of them. The reason of this Grant of Appeals is very civil and modest. For, saith he, saving the Reverence of our Majesty, we do not disdain to have equal Law or Justice with private persons. Another thing complained of, was, that such Acquittances as had been given by former *Proconsuls*, were questioned by their Successors, to the great vexation and disquiet of the People; to redress which, *Celer* is commanded also to forbear all such Discussions for the time to come, and with him all that shall succeed in the place of *Proconsul*. A fourth Grievance yet was urged by *Bubulcus*, that one *Curialis* in the same Territory of the City was constrained to pay Tribute for another, which was grown so intollerable, that there were scarce any sufficient Men to be found. In answer to which, *Celer* is charged, that each person be only responsible for his own Ground. So just and temperate was the Government of those who advised *Valentinian* and his Mother, and suitable to this civil Answer given to the Messengers of *Africk* was another Law directed to *Volusianus* the *Præfekt*, after this manner: *It's a saying worthy the Majesty of a Prince to profess himself bound up by the Laws. So much doth his Authority depend upon that of the Law. And indeed it is a thing greater than Empire to submit the Prince his power unto Laws. And by the*

L. ult. de
lationib.
Consultati
Cod. Th. A.
a Cod. J.

L. 185. d
curionib.
Th. & L.
Apachis
publ. Cod.

L. 186. ej
tit.

L. 1. de L
Cod. Just.
tit. 14.

Oracle

Sect. 4. Oracle of this present Edict (so it concludes) that which we do not permit to be "lawful to our selves, we declare to others."

23. We are now arrived at the CCCCXXX Year of Christ, wherein Theodosius Augustus the Thirteenth, and Valentinian the third time were Consuls. The two Emperors made their Abode as formerly; the one at Ravenna, and the other at Constantinople. The Siege of Hippo still went on, and continued for fourteen Months; and toward the middle of it Augustine the Bishop died, when the whole Country of Africk, except Carthage, Cirsa and Hippo were already over-run by the Vandals. The Government at this time thought fit to put a difference betwixt

Augustine the Bishop of Hippo dies during the Siege.

the Province called Byzacena, and that of the Proconsul; so as the Curiales or Praepositi might be constituted, the Praepositi or Overseers of the Granaries, which in the Proconsular Province is denied, for reasons, no doubt, reflecting upon the Curiales or Praepositi of this Province, who were not to be intrusted with such a concern. We hear no more of any Employment the Quaestor had at Ravenna this year; but his Brother at Constantinople was employed by the importunity of some Courtiers to explain and limit an Edict which the Emperor five years before had directed to Valerius the then Comes Rei privatae. Taking into his serious consideration the custom of begging Estates forfeited, and how at this time of danger there was need of enlarging his Revenue, and assisting his Treasury by all lawful means, he thought he should deal very favourably with such Beggars, if he granted their request, with this condition, that his Exchequer should go an equal share with them in all Estates so begged and granted, except in those that belonged to Temples and Patrimonial Lands, which being already invested in himself, it was supposed he knew what he gave out of his own Purse; and therefore, if they were granted, it must be supposed that he knew what he did, and they passed wholly to the Grantee.

A. D.
430.
Theodosio A.
13. & Valentiniano A.
3. Cess.

L. ult. de Successorib. Cod. Th.
Dat. 15. Cal. Mart. Absq. a Cod. Just.

L. 22. de Petitionib. Cod. Th.
Absq. a Cod. Just.

24. But in Lands or Estates so to be divided, he to whom they were granted must first deduct his Expences and Charges in suit, and then the Division to be made of the Residuum. And all Judges were expressly commanded to use all indifference in the Trial, and not be partial, as too often they were when the Treasury was concerned, whether the Comes Rei privatae himself heard the matter, or the ordinary Judge of the Province in places at a great distance. Nay, the Advocate of the Treasury himself must be present, as commonly at such trials, yet he is commanded to be silent, lest the Judges be biassed by his arguments and discourses. But if the matter was compounded before it came to the trial, yet to be sure the Treasury should carry away one half of what was gained by such Composition or Transaction. Nay, although the person that begged the Estate, obtained a private Rescript for his enjoying the whole, yet should such Rescript be void, and of none effect. Moreover the Laws formerly made concerning time given to the Possessor to maintain his Title, and after which he should not be molested, were confirmed. But now Theodosius thought fit to dispense with this Law of Division, when those that belonged to his Bed-Chamber were concerned; so as they having discovered and obtained such Estates, should not be bound to part with half to the Treasury. In all other things he confirms that Law, and for this favour extended to his Bed-Chamber Men, he gives no other reason than that of his own Clemency. And we may easily believe that to have been the chiefest motive. For he was so gracious to their Praepositi, as to take him into the second Rank or Degree of Illustrious persons, making him equal with the Praefecti and the Magistri Militum. But these persons, as other near Attendants, the Castrenses and Protectores had greater opportunity than others to insinuate, and drive a great Trade by begging, as we have seen formerly out of Ammianus, yet at length it was quite spoiled, this being the last Edict of this nature extant in the Code of Theodosius, and not inserted into that of Justinian, because such begging was forbidden, and made unlawful by his Law.

L. ult. Cod. Th.
cod. tit. Absq. a Cod. Just. propter petitiones sublatas.

Theodosius kind those of his Bed-Chamber.

25. Some of his Officers were so unreasonable, as, though they had Houses of their own in Constantinople, yet when the Court was there they would pretend a right to take up Quarters with their Neighbours. This he thought fit to forbid by orders sent both to the Comes & L. and the Magister Officiorum, commanding that in case any such would take up other Mens Houses than their own, they should be made liable to quarter; forasmuch as only illustrious persons had their Houses excused from that service. And the necessity of the times required, that he should make a little bold with such as had obtained Lands or Estates from him and his Predecessors, that out of these Lands Contribution should be according to the

L. 15. de Mensuris, Cod. Th. Absq. a Cod. Just. Dat. 8. Cal. Mart.

Sect. 4. Exigencies of the State. For in the days of *Theodosius* the Great, *Arcadius* and *Honorius*, some Lands had been obtained by way of free Gift, as the Lands of particular Cities, and chiefly of Temples which were since the overthrow of the Pagan Superstition, either laid to the *Res privata* of the Prince, assigned to the maintenance of Military Employments, allowed for the service of Churches, or bestowed on private persons. There were of these Grounds some granted without any Rent charge at all, others had some charge (as reasonably they might have) put upon them. Besides, there were another sort of Lands which being barren and deserted, upon view of the *Peraquators*, had been released from the ordinary Tribute; of all these upon extraordinary occasions, an extraordinary Imposition was laid six years before by a Constitution directed to *Asclepiodotus* then *Præfectus Prætorio*, with hopes that some Abatement might afterwards be made. But now this promise was rather repeated than fulfilled; another Edict for regulating that Affair, being given out to *Antiochus* the present *Præfect*, whereby further Rates are prescribed for laying these Impositions, and regulating these payments, hope being still given of Indulgence. But such was the necessity of the times, by which *Theodosius* excuseth himself; the Empire being now in so dangerous a condition as called for all the assistance which Justice and the common safety might excuse.

Necessitated to require extraordinary Burthens.

26. The following CCCCXXXI of our Saviour had *Bassus* and *Antiochus* for Consuls; or, as in the former Year, sometimes is found noted at publick Acts, *Theodosius* and he who should be nominated, so in this *Antiochus* alone is named Consul. The two Emperors for any thing we find held their residence this Year as they were wont, at *Ravenna* and *Constantinople*. *Antiochus* the Consul is said of an Eunuch to have been made a *Patritian*, and afterwards being accused to *Theodosius* of some crimes, to have been deprived of his Estate, reduced to a private life, and to have taken Orders; upon which occasion the same Writer reports this Emperor to have made a Law or Sanction, whereby was prohibited, that Eunuchs should be numbred amongst *Patritians*; which Sanction we would gladly see. Whether *Antiochus* might be in fault or not, in being careless to supply the City of *Constantinople* with provisions; and thence might incur his Prince's displeasure, is not known; but this Year a great scarcity of Provisions is reported to have been in that City, by which the people was so enraged, as to fall into a tumult; and when the Emperor went in person to the publick Granaries to give some relief to the present distress, to have cast Stones at him. The Barbarians that then quartered in the City, in an hostile manner went to the great Church, and endeavoured to set fire to the Altar, and thence could not be perswaded to depart, till falling out they killed one another. For supplying the publick Granaries, we find an Edict, or a *Pragmatick*, as the Author himself terms it, bearing date of the twenty eighth of *April*, of this Year; but we find it inscribed to *Flavianus* the *Præfectus Prætorio* under *Valentinian*. This forbids any person to be free, or enjoy any Immunity from either ordinary or extraordinary tributary Functions; though under pretence of any privilege obtained from the Prince himself, excepted always his own Patrimony which, he affirms, he very frequently assigns to the publick Necessities. And considering the tumults and dangers the Empire of the West especially was now in, we may easily believe him. For *Genserich* by this time had taken *Hippo*, and made such further progress with his Arms, as rendered the Endeavours of *Boniface* and other the Roman Captains very ineffectual.

27. The CCCCXXXII of our Lord had for Consuls *Ætius* and *Valerius*, though they at *Constantinople* had so small intelligence out of the West, by reason of Disturbances and Wars, as we may easily guess, that for a considerable time they knew nothing of *Ætius* his promotion, but dated their publick Acts with the Consulship of *Valerius*, and of him who should be declared, as they had done the Year before. The Arms of *Genserich* had been so successful, as to make *Boniface* willing to comply with the invitation of *Placidia*, who at his return into *Italy*, procured him the Title of *Magister Militum*. Now being arrived at Court, his spirit was too big to brook his Emulator *Ætius*, and he retained so great a sense of the Injury done him, as to challenge him to a single Combat. The matter was represented to *Placidia*, and she was perswaded to give way to the Duel, wherein *Boniface* had the advantage, and overcame his Adversary; who, as now degraded, betook himself into the Country to a private life. Here one would imagine he languished; yet he survived the Conqueror, who in the third Month after his Victory, died; and on his Death-Bed perswaded his Wife *Pelagia* to marry no other Man

Boniface dieth.

A. D

430

L. l. 5. de
latione Den
rum, Cod. Th.
Abf. a Cod
Just.

A. I

431

Basse &
tiocho C

L. 34. de Pi
onib. & l. 1
Metatis, Co.
Th. Chronol.
Cod. Th.

Suidas. Vi
Baron. ad b

Marcellinu
Socr. lib. 7.4

L. 36. de A
na, & Vi
Cod. Th.

L. ult. de p
legiis don
Augusta b
interpolat

A. I

431

Ætio C
Valerio

L. ult. de hi
ad Ecclesi
confugiunt
Cod. Th. D.
Cal. Apr. V
Conf. & qn
rie nuncia

Marcellinu

4. Man but *Ætius*. In the place of *Boniface* one *Triquetius* was sent into *Africk*, who gave diversion to *Genserich*, and opposed him in his undertakings. We do not find the *Questor* at *Ravenna* much busied this Year; only confirming the privileges granted by former Princes to the *Décuriones* and *Silentarii*. And he of *Constantinople* had work of little higher nature, recommended to him by the Emperor his order, and consent of the Senate, in behalf of the *Domesticks* of that Court, to whom, besides the confirmation of their former privileges, was now granted, that their *Primicerius* after having obtained to be Tribune, should be reckoned amongst the *Exduces*; and if he died before his Year was out (this being the term of his Office) the remainder of his Salary should go, not to the Exchequer, as ordinarily it did, but to his Heirs, which was a favour extended to some few others, as the *Advocates* of the Treasury, the *Scriniarii*, the *Primipilares*, the *Domesticks* and *Protectors*, and the *Secundocerii* in the *Schole* of the *Equites*.

A. D.

432.

L. 2. de Decurionib. & Silentariis, Cod. Th.
Dat. 9. Cal. Apr.
L. 11. de Domesticks & Primipilares, Cod. Th.
Dat. 3. Id. Jun.

28. *Theodosius* for the Year following took upon himself the Consular Ornaments, and had *Maximus* for his Colleague in that Dignity. *Ætius* being worsted by his Adversary, had not the face to shew himself at Court, but keeping a little in the Country, went to *Rome*, and thence to avoid further inconvenience, into *Dalmatia*, and *Pannonia*, where he became more familiar to the *Huns*. By their means he raised himself to his former Reputation, and now *Valentinian* had need of him, by reason that *Gundicarius*, King of the *Burgundians*, broke the League, and passing out of his own Bounds, invaded *Gallia Belgica*, which he wasted with Fire and Sword, till such time as *Ætius* being sent against him, forced him to turn his Back, and depart home. While *Gallia Belgica* flamed with Hostile Attempts made by *Gundicarius*, *Constantinople* was almost consumed to Ashes by some cause or other of another nature. *Socrates* writes, that such a Fire happened, as had scarcely been in former times. For a great part of the City, (*Marcellinus* names that toward the North) was consumed hereby, and the most strong Forts and Places of Resistance, particularly that called *Achilles*, was consumed by this Conflagration, which continued the space of two days and as many nights; some say three days, in the middle of *August*. *Theodosius* finding himself in a condition to do it, passed another general Act of Indulgence, as he had done nineteen years before. Then, as we have seen, he granted a general pardon for all Arrears due to him from the Year CCCLXVIII, to the Year CCCCVII inclusive, or for forty Years; and now he thought fit in an Edict directed to *Taurus* the *Præfekt* of the *East*, to extend this Grace and Favour to the twenty years next following, from the Year CCCCVIII, to the CCCCXXVIII, or, as he expresseth it, from the sixth Indiction to the eleventh, in as ample and full a manner. And because the *Numerarii* and *Domesticks* of the *Præfects*, and Governours of Provinces were still too often knavish, and great complaints were made against them, he ordered *Taurus* by another Constitution to take care, that at the going out of their Employment, they should not be preferred for three years, so as by any privileges to be excused, but so as they might be brought to punishment for any misdemeanours committed, during their Administration. And thus he not only remitted Tributes in Arrear, but took care that in such payments as were to be made, the Subject should not be abused.

A. D.

433.

Theodosio A.
14. & Maximo Coss.

Lib. 7. c. 38.

L. 10. de Indulgent. Debitorum, Cod. Th.

L. ult. de Numerariis, &c. Cod. Th. & l. 9. de Adfessurib. Cod. Just. lib. 1. tit. 1.

29. The Year CCCCXXXIII had for Consuls *Areovindus* and *Aspar*. The War still went on in *Africk* with various and doubtful success; but the Court of *Ravenna* was most afflicted with a thing which happened within its own Walls. For there *Honorius*, the Sister of *Valentinian*, not able to contain, or keep her Virginity, was found to have stohn a great Belly, by the help of *Eugenius*, her *Procurator*, or Manager of her other matters, and then plotted with him how to deprive her Brother of his Estate. The thing being discovered, she was only sent away to *Theodosius*, that he might censure her as he thought fit, which *Marcellinus* placeth at this Year, though *Baronius* refers it to the following from more perfect Copies, as he affirms. Some say that she first invited *Attila*, King of the *Huns*, to come and marry her; and that design failing, took her own Servant to satisfy her Lust. She found *Theodosius*, certainly, well spoken of by the People, not only in reference to the Indulgence he had granted the Year before, as to the Arrears of twenty years of all ordinary payments; but also as to another granted this Summer, whereby he remitted the Arrears of a Tax, which to supply occasions, had been extraordinarily imposed upon Lands that had been freely given, or relieved from Tributes, as the custom was in such cases, by the management of *Antiochus* the *Præfekt* three years ago. This he granted by an Edict issued out to *Taurus*, by the

A. D.

434.

Areovindo & Aspare Coss.

L. 15. de Indulgentis Debitorum, Cod. Th.
Dat. 12. Cal. Jul.

Titles

Sect. 4.

Titles of *Præfekt* and *Patrician*. And as hereby he pleased the Provincials of the East, so he passed another Act of State, directed to *Leontius*, the *Præfekt* of *Constantinople*; which must have been as grateful to that City, pressed these years with a Scarcity of Provisions, as *Marcellinus* notes. By this he ordered a sum of six hundred and eleven pounds of Gold to be for ever set apart for buying of Corn: which quantity exceeded much the five hundred pounds he had formerly given. This he forbids to be diminished by any *Præfekt* for the time to come, or applied to other Uses, under pain of forfeiting the double of the Value.

Trigetius makes a Peace with the *Vandals*.

30. The next Year, or the C C C C X X V of our Lord, was honoured by the fifteenth Consulship of *Theodosius*, and the fourth of *Valentinian*, the two Emperors. It was remarkable to the West in these respects; that *Valentinian* having happily entered the tenth of his Reign, as some write, went to *Rome*, and there celebrated his *Decennalia* in the usual solemn manner. The joy hence conceived was no whit the less in that, at the beginning of *February*, a Peace was made by *Trigetius*, with *Genseric* and his *Vandals*, by virtue of which they had assigned to them that part of *Africk* lying near *Hippo* to inhabit. About the same time *Aëtius* had very good success against the *Burgundiones* in *Gall*; who, in conclusion, were destroyed by the *Huns*. *Sebastian*, who had been Son in Law to *Boniface*, the late *Patrician*, had betaken himself to *Constantinople* for Refuge, whence now he privily conveyed himself, hoping to find some kind of Entertainment in *Africk*; but such it was as he was to expect in order to his repairing to his long Home, for he was killed there not long after his Arrival. *Theodosius* continued this Year at *Constantinople*; where, being free from Wars, he consulted sometimes with his *Quæstor*; and, at the end of *January* published a Constitution in favour of the *Principes*, taken from amongst the *Agentes in Rebus*, with whom the Offices of Magistrates, and Governors of Provinces were wont to be supplied. He permitted them to take such Domestic sticks as they pleased, whereas such Attendants were wont to be chosen and admitted under the Inspection of the *Primates* of the Offices; and farther, gave them liberty to take such as had already executed the same Charges, which had been in other Cases, formerly unlawful as well as this.

The *Agentes in Rebus* reduced.

31. And whereas some of the *Agentes in Rebus*, after long Service, were, by the Emperor's Codicils, promoted to be Honorary *Principes* in respect to their health. He allows of this now, if they had served in the Employment five and twenty years, and that they enjoy the same privileges with those who arrived at the Dignity by serving out the whole time, and taking it in course: yet so, as those who had obtained Codicils, should, in Salutations and sitting with the Judges, give place to those who had compleated their full Service, though, as to time, they might be superior to them. This Edict is directed to *Valerius*, the *Magister Officiorum*; but at the bottom it is said, that Copies were also sent to *Isidore*, *Præfektus Prætorio* of the East; to *Reginus*, *Præfekt* of *Illyricum*; to *Leontius*, *Præfekt* of the City; *Theodotus*, *Comes* of *Egypt*; *Abthartius*, *Comes* of the East; *Cleopater*, the *Præfektus Augustalis*; *Hesychius*, the *Proconsul* of *Achaia*; *Eusebithius*, *Vicar* of *Asia*; and *Nestarius*, *Vicar* of *Pontica*. Now, this Marshalling of these great Officers is not perfectly the same with that we have in the *Notitia* of the Empire, published about eight years before; for, therein the *Proconsul* of *Achaia* is put before the *Comes* of the East, and the *Præfektus Augustalis*; and the *Comes* of *Egypt* is placed after the *Vicars*. This same year it is very observable, that *Paulus*, the *Magister Officiorum*, thought fit to reduce the *Agentes in Rebus* to the number of one thousand, one hundred, and seventy four persons; who sometimes, in Reigns of some Princes, had been no fewer than ten thousand. All Stragglers and Absenters he summoned in thrice; and such as came not, he struck out of the Rolls. All this was now, by *Theodosius*, confirmed; yet so, as these Desertors should not quite be cashiered; but retained in the Schole as *Vacantes* or *Adscriptitii*, so as to succeed into the Employment of the *Agentes* themselves, as they should die or be preferred: which was the Course observed, both in this and other Employments, by the *Romans*, to train up Men by degrees, and make them fit for Service.

A good Law about confiscated Estates.

32. But, about this time notice was taken of several Estates, which, by reason of want of Heirs, or for Treason, were fallen to the publick Treasury. *Theodosius* considered both how often the Treasury was defrauded of such Possessions; and many Persons injured, who had real Title to such pretended forfeited Estates; both by reason of the careless or unjust Prosecution of his Officers, and the tricks of such as begged Estates so confiscated. To prevent which, he granted out an Edict to *Hieriscrates*, his *Comes Rei Privata*; by which he enjoined, that, Upon report made

A. I.

434

L. ult. de F.
mento ur.
Consp. Cod.
Dat. 5. Cal.
L. 2. C.
Just. ad. tit.

A. I.

435

Theodosius
A. I. C. I.
L. ult. de F.
4. C. I.

Pr. I.

L. ult. de Pr.
pib. Ag. n.
Rebus, Con. 7.
L. 4. C. I.
Just. ad. tit.
Dat. 4. Cal.

L. ult. de Pr.
tibus in
Cod. Th. An.
Cod. Just.

L. ult. de Pr.
Vacantib. C.
Th. C. L. ult. C.
Just. ad. tit.
Dat. 7. Id. C.

St. 4.

made of such Estates, his own Officials should be sent down to enquire after " them ; but such as were chosen out on purpose, and obliged by Oath to fair and " honest dealings. These Officials should make a true Report hereof to the Gover- " nor of the Province ; who thereupon, the Advocate of the Treasury being pre- " sent, should make a full and thorough Inquisition into the Nature and Circumstan- " ces of such Estates; leave being here given to all Persons concerned to interpose and " defend such Estates from any such Imputation. Of this, the Governor of the Pro- " vince must give a full Account to the Emperor himself, and send up the Acts, and " an Inventory of the Estates to Court ; where an Incorporation thereupon should " be made before any person should beg them. In case this method be not observed, " The Officers to be sent down he deprives of one half of their Estates if either the " Treasury or private Persons were injured ; the *Proconsul* he threatens with his " Indignation ; and upon the Advocate of the Treasury he imposeth the damage " which either the Treasury itself, or any private Person concerned, should wrong- " fully sustain in this Action. So great was the trust that was imposed on the *Advocate*.

33. The *Consuls* of the Year CCCCXXVI were *Isidore* and *Senator*. Where *Valentinian* resided either the last or this year, we do not find by any dates of Laws ; but we find *Theodosius* at *Constantinople* till toward the end of *August*, and then at *Apamea*. The Province of *Gall* was now disturbed by *Theodorich*, King of the *Goths* ; who, when the former War was scarcely composed, made another upon the *Roman* Officers, and laid Siege to the City of *Narbon*; as *Prosper* writes : who adds, that he was thence removed by the endeavours of *Litorius*, a *Comes* of these times. *Valentinian*, upon rumour of these motions of the *Goths*, sent away *Litorius*, some say, with a great Power of *Huns* ; who finding the City sorely straitened by Famine, sent first a Supply of Wheat in to the Besieged (two *Modii* by every Horse-man) and when this was known, *Theodorich* was more easily persuaded by *Avitus*, a great Man amongst the *Arverni*, and of good repute both with Emperor and *Goth*, to raise the Siege, and get him gone. While the endeavours of the Government of the West tended to succour its Subjects from the violence of Foreign Enemies, *Theodosius* employed himself in giving relief to such of his as were opposed by their Fellow-Subjects. Particularly, in *Egypt*, *Gigantius* a *Cappadocian*, and about this time *Corrector* of *Augustamnica*, miserably oppressed the Inhabitants by several sorts of mischiefs ; and, amongst others, by laying on them a new and unwonted Tax, so grievous and burthensome, that many were forced to run their Country. For these his pranks he was, by the Emperors Command, apprehended, cast into Prison, and punished as he had deserved, as appears from the Epistles of *Isidorus Pelusiota*, so called, from his Country *Pelusium*, which was the Metropolis of *Augustamnica*. But, besides the punishing of his Person, there was need to prevent such Rapacity for the future. And, upon this, or other such occasions, we find, this year, a large Constitution directed to *Isidore*, the *Praefectus Praetorio* of the East.

34. This provides for the security of the *Egyptians* in general ; but particularly, for the interest of the *Alexandrines*. It signifies that the year before, the Provin- cials, out of ignorance, had been compelled to pay such Impositions as afterward the event shewed to have been undue. And therefore, to prevent the like, the *Praefect* is ordered to cause the Indiction to be made publick in places of greatest resort, before the *Calends* or first of *May*. About this time the Indictions of *Egypt*, as well as *Antioch*, began ; though ordinarily, in other places, in *September*. The reason was, because Harvest was commonly got in about this time ; for, they sowed when *Nile* was returned to its Channel in the beginning of *November*, and began to reap a little before the beginning of *April*, though in *Palestine* they scarcely got in their Corn before *Whit-Sunday*, or *Pentecost*. The Edict for the Tax he will have exposed for two months together, or from the beginning of *March* ; the Copies thereof being sent throughout the Provinces by the *Scriniarii* belonging to the *Praefect*, and then published by the Officials of the *Praefectus Augustalis*, the *Cohortales* belonging to the Governors of the several Provinces, and the *Defensores* of the Cities ; who are to take care thereof at their peril. Prevention of mischief is a sort of doing good, but not so direct as positive Acts of Bounty and Goodness. As the Cities of *Rome* and *Constantinople* had Corn or Bread freely bestowed by Princes on their Inhabitants, so had also that of *Alexandria* by the Munificence of *Diotletian* ; who, after the Overthrow and Death of *Achillens*, committed horrid Outrages in that Country ; but yet ordained several things which highly conduced to the Settlement of the Estate thereof, and to the Emolument of that

A. D.

435.

A. D.

436.

Isidore &
Senatore
Coss.L. 3. de Indictio-
nibus, Cod. Th.
Dat. prid. Non.
Jan. Abest a
Cod. Just.Isidorus very
familiar to the E-
gyptians.

Sect. 4. that City. *Constantine* the Great had also been kind to the Poor of that Church. But now *Theodosius* was so charitable, as to add to the former Allowance, toward the maintenance of the Common People, one hundred and ten *Modii* by the day; so as no Man should be defrauded of what formerly he had enjoyed.

35. But the Companies of the City of *Alexandria* were bound by some ancient Law or Agreement, to cleanse those Channels which were made for deriving the Water of the *Nile* into the several Territories and Fields of that Country. This they found so heavy a burthen, that, not well able to support it, they made their Application to *Isidore*, the *Præfect*; and with such Success, that he obtained a Rescript to be directed to himself; Whereby they were freed from that Charge; and, in room of their free Contribution, out of the Tolls belonging to the City, which they called *Dinumminum* (the same with a *Denarius*) four hundred *Solidi* should be allotted to that Work; which should be repayed out of the Customs laid upon Merchandize or Ships, a Revenue that belonged to the Prince himself. Here were Bodies or Companies, as *Bakers*, *Suarii*, *Catabolenses*, *Pecuarii*, *Susceptores*, *Mancipes* of the Baths, *Burners* of Lime, and others in this City as well as in *Rome* and *Constantinople*, who had several Privileges; as, not to be lyable to extraordinary Impositions; not to serve in War, except for the guarding of the Gates or Walls: but were obnoxious (for all this) to various Burthens, from one of which they now obtained a Relaxation. Thus *Theodosius* consulted for the Emolument of the Subject in general throughout *Egypt*, in respect to Tributes; and for the benefit of *Alexandria*, and its Bodies or Companies; nay, its Common People or Inhabitants. It's a wonder if we should find nothing concerning the *Curia* and the *Curiales*, the Senate by which that great City was governed; so great, that it stood, in those days, in competition with *Carthage*, which of the two should be named first after the two *Romes*.

Particularly to
the *Alexandri-*
ans.

36. Yet, because of the turbulent, light and inconstant humour of that People, *Augustus* formerly had denied them the privilege of having a Senate; forbad also, that any Citizen of *Alexandria* should be chosen into that of *Rome*: and indeed, for the same reason succeeding Princes were averse to give leave to any to become free Members of the former City. But at length *Severus* indulged them so far, as to grant them to have a Court, and the *Fus Curialium*, or *Bouleutarium*, as they called them; whereas formerly they had lived as when under their own Kings, contented with one Judge, who was nominated by the Emperor. And *Caracalla*, his Son, though otherwise he was very severe unto them, permitted that, as other Subjects, they might be chosen into the *Roman* Senate. After this, the Court became of great fame and esteem according to the greatness and importance of the place; in so much, that *Theodosius* the Great wrote to them by the name of *Senators* of the City of *Alexandria*: and now, his Grand son thought fit to grace them with farther privileges. The chief of the Court, usually ten in number, were, as we have seen, called *Principales*, and had greater Immunities than the rest: to which this Emperor thought fit to add this year, that, They should not be forced to undertake a Journey, or to carry a Message to Court; nor to undergo any publick Charge out of their City, which was intended rather for the advantage of the place than of them: it's Safety and Honour much depending on their Presence, Care and Industry. And, this was now so far pressing, that, although they were Advocates, and consequently, by their Learning and Skill in the Laws, abler and fitter to undertake such Employments, yet he will have them excused.

37. But of these *Principales*, there was a Chief, or *Primus*, who held the first place in, and governed the Session; who deserving, in that respect, more than others, *Theodosius*, by this Constitution, confers on him the Dignity of *Comes* of the first Rank; which drew along with it the Senatorian Dignity. But yet, we must confess, with some odd and unusual Circumstances. As first, That he should enjoy this Dignity but for five years; whereas usually, such Honour was conferred for Life. Then, though he was hereby a Senator, he shall not be subject to any Senatorian Function. And, he will have him a *Comes*; yet so, as still to remain and serve in the *Curia* of the City. But yet, still, amongst the *Principales*, besides the *Primus*, there were five they called *Primates* and *Summates*; who were under the *Primus*, but were superior to the other *Principales*. These he will have free from Corporal Injuries, Examinations or Punishments by Torture, which Immunity others of the *Curiales* formerly enjoyed, but it seems it had been broken in latter times; and now *Theodosius* thought fit to restore it to these persons. And

A. D.
436.

Lult de Frumento Alexan-
drino, Cod. Th.
& L. 2. Cod.
Just. cod. tit.

Lult de Alex-
andrine Pin
Primitibus
Th. & L. 2. Cod.
Just. cod. tit.
Dat. Præd. No
Jun.

L. 189. de Di-
visione Cod. Th.
& L. 56. Ca.
Just. cod. tit.
Dat. Præd. No
Jun.

L. 190. de Jus-
tit. & L. 57
Cod. Just. cod.
tit. Dat. Præd.
Non Jun.

for

ect. 4.

for it he gives this reason ; that with free Speech they may defend the Interest of “ their Country, which, before this, they durst not use for fear of Torture when “ they were to lay open to the ordinary Judges the Grievances under which they laboured ; whether of immoderate Impositions, of Injuries received from their “ Officials, or such like ; which, in this Country of *Egypt* were very frequent, and at this very time under *Theodorus*, the *Præfectus Augustalis*, whom *Isidore* taxeth for his insolent demeanour towards all Men. To secure these *Primates* against it, the Emperor, in case of Misdemeanour, ordains that they be only punished by “ the Purse, and that the Mulet be imposed by the *Præfect* in the Court, before all “ the *Curiales*. “ For the encouragement of such as had continued long and worthily in Service of the Court (possibly thirty years) he ordains further, That they be “ excused from Corporal or Personal Services, though not from Patrimonial or Pecuniary ; for these were often divided. “ And because oftentimes it happened, that some Persons not at all obliged to undertake these Services, would voluntarily become *Curiales*, either out of love to their Country, or by the motion and persuasion of the *Principales* ; particularly, the *Hypomnematographus* : who, being the second in place, was wont to nominate persons to publick Functions, distribute Offices, and keep the Records of such Transactions : and whereas the *Præfectus Augustalis* would often interpose, and, some way or other corrupted, hinder such Agreements, *Theodosius* declares, that, His consent, which he affirms, was most “ commonly mercenary, shall not be expected ; but he shall admit and confirm such “ Agreements upon Application made to him by both the Parties, under pain of in- “ curring a Fine of twenty five pounds of Gold. “

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L. ult. de iustitia
& L. 58. Cod.
Just.L. ult. de Decepi-
onib. Cod. T. &
L. 40. Cod. Just.
cod. tit.the Offi-
of his Re-
ce.

38. Thus kind was the Emperor to the Courts and the Members thereof, as often his Predecessors to their Subjects ; but of Indulgence to their own Officers belonging to the Revenue we seldom hear. But, about this time several of the Susceptors, or Gatherers of the Provisions in kind, being in Arrear of what should have been paid into the *Arca* of the *Præfectus Prætorio* ; *Isidore* holding that place, summoned them in, and set them certain Sums of Money in lieu of them. This Taxation, or Exchange seemed to *Theodosius* very moderate ; yet, they thinking it otherwise, petitioned him for a milder Composition : and he was so inclinable to shew mercy, that he forgave them the one half of what was due before the tenth Indiction or “ the CCCCXXVII of our Lord ; commanding the rest to be duly paid. “ *Isidore* continued *Præfectus Prætorio* of the East till toward the month of September, and then was succeeded by *Darius* ; to whom we find a Constitution directed on the eight and twentieth of August. This was of Indulgence also, in reference to the Exchange of Money for Tributes in Specie : and herein to confirm the Privileges granted by former Princes, and to put an Honor upon *Cyrus*, an eminent Prelate, who was Bishop, at this time, of *Afrodiasia*, the Metropolis of *Caria* ; and had lately done good Service to the Church, in the Council of *Ephesus*, against the Heretick *Nestorius*. He declares his Merits to be such, that he shall not be prohibited to make use of a special Indulgence, contrary to this general Sanction. But otherwise, he declares, that, at the end of five years, an Estimation being made of the Profits or Revenue ; and the Fertility and Sterility being compared, the Possessor may pay a fifth part of the Value ; and that, according to the ordinary “ Market Rate of that Year. “ This Law is dated at *Apamea*, of which there were two ; one in *Bithynia*, and the other in *Phrygia* : the latter of which, called also *Cibotos*, was nearest to *Cyzicus* ; whither *Marcellinus* reports *Theodosius* to have repaired by Water this Year, and to have been very gracious to the place. It made up, with other Injunctions, a larger Constitution, by vertue of another part whereof *Darius* was enjoined, as formerly his Predecessor *Isidore* had been, to “ take special care, that before the beginning of the Indiction, timely notice should “ be given of the quantity of the Tax ; that the Officials might not cheat the Provincials, by pretending it greater than indeed it was. “

Adaratio.

L. ult. de Indulga
Debitorum, Cod.
T. Absent a Cod.
Just.L. ult. de Annua
& Tributis,
Cod. Th. Dat. 5.
Cal. Septemb.
Absent a Cod.
Just. ut tempo-
raria & histo-
rica.L. ult. de Indi-
ctionib. Cod. Th.
& L. ult. Cod.
Just. tod. tit.nus, an
ent Pre-

39. The Year CCCCXXVII had for Consuls, *Ætius* and *Sigisvultus*. *Theodosius* continued this Year at *Constantinople*, whither he had returned out of *Asia* in October. Where *Valentinian* had his Abode is something uncertain, though this be certain enough, that, at the latter end of the preceding, or in this he made a Journey Eastward, to marry *Eudoxia*, the Daughter of *Theodosius*. *Prosper*, *Marcellinus*, the *Chrochicon* of *Cassiodorus*, and others, set it at this Year. But *Socrates*, who living at this time, and concluding his History shortly after, had better reason to know the truth, writes, that they were married in the Consulship of *Isidore* and *Senator*. That *Theodosius* having granted his Request, it was considered what place

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Actio & Si-
gesvultus, Coss.
Lib. 7. c. 43.

Sect. 4.

Valentinian
marries the
Daughter of
Theodosius.

place would be most convenient to meet at, betwixt *Rome* and *Constantinople*, for consummating the Marriage; and *Theſſalonica* was most approved, as in the middle way. But *Valentinian*, as became a brisk Lover, desired him not to trouble himself, for he would come to *Constantinople*, and fetch his Bride himself. And accordingly, when he had plac'd his Affairs of the West in safe hands, he went thither: and having consummated the Marriage, returned speedily again into his own Dominions. Some write, that he purchased his Wife by quitting part of *Illyricum*; whereas one would have expected, that he should rather have received the other part in Portion with her. But, while *Valentinian* was thus engaged in matters of Love and Marriage, *Littorius*, his Officer, being disintangled from the Tumults of the *Goths*, made War upon the *Aremorians*; who, not long before, had revolted. He did not think the *Goths* would so soon return to their turbulent humour, as it happened: for, no sooner was the Rod removed out of their sight; no sooner was he withdrawn, but they renewed their Hostilities, and fell into the Country of the *Arverni*, which they wasted with all sorts of Calamities. But, upon *Littorius* his returning victoriously from *Aremorica*, and bringing a power of *Huns* to assist him, they were easily obliged to cease their Depredations, and retire to the place from whence they came.

The last Con-
stitution in
Theodosius his
Code in be-
half of the Si-
lentiarii.

40. What Portion soever *Theodosius* gave with his Daughter, or what Contract was made about the Marriage, in a Constitution of this Year, and the last of all that his Code contains, he gives him the Title of his Lord and Son: but this he might do out of other respects, as well as the newly contracted Relation. Herein he confirms the Privileges he had granted to the *Decuriones* and *Silentiarii* five Years before, in contemplation of their merits. And besides these, he adds others of his own Grace and Favour. As, that they shall enjoy the Honour of *Senators*, but be excused from the burthens belonging to persons of that rank; as the *Pratorship*, and the *Glebalis Callatio*. That they shall be excused from the *Mensusus*, whether their Houses be in *Constantinople*, or in other Cities; so as not to be bound to find Lodging for any, of what Dignity soever; whereas the *Illustres* only were wont to be indulged in this kind. But he declares, that these Privileges shall be understood, not to extend to any *Supernumeraries*, but to thirty *Silentiarii*, and three *Decuriones*; to which number he had reduced them. And such only shall enjoy them as have continued and demeaned themselves unblameable in the Service for the space of thirteen Years; or, as he expresseth it, continued their Watches or Attendance so long. Whereby he expresseth the particular Duty and Service of these Men, who, as we have formerly said, watched and warded about the Emperor's Bed-chamber, at the second Velum, or Hanging, when he was in Consistory, or had any business with his Council, or treated upon any Messages brought out of the Provinces. There they both commanded silence, and were in a condition to procure it, being armed, for the ease and security of the Prince. This Edict is not dated with the names of the *Consuls* of the present Year, but thus: After the *Consulship* of *Isidore* and *Senator*, although in the middle of *March*, which was much, that their names should not be known at that time.

41. For the next, or the CCCCXXXVIII of our Saviour, *Theodosius* himself, the sixteenth time, took the Consular Ornaments; and with him was joyned *Fauftus* in the West. Nothing so memorable happened this Year, as the Confirmation of *Theodosius* his Code, which had been composed in the former. As in all States and Dominions Laws are made *pro re nata*, and according to the Exigency of Affairs, in process of time they ordinarily grow to a great number; and, as accidents and circumstances vary, so become often obsolete and out of use, though they continue to be Historical, and to shew the state of the times when they were ordained: So happened it at this time with the Laws of the *Romans*, especially, the Constitutions of Emperors; and there was need to make some discrimination betwixt them that were indeed useful, and such as continued to be directive to the present Conduct of Affairs. Formerly some had taken the pains to gather into Bodies the Edicts of some particular Princes; but there were none that came forth entire, or considerable for their quantity and use, till those called *Codex Gregorianus* and *Hermogenianus* saw the light, in the days of *Diocletian*, and about ten Years before *Constantine* the Great. They were of great moment, as appears by the use made of them in after times, though they be now lost, as to us. Yet it appears not whether they were published by publick Authority or not: and its also uncertain who were their Authors, who this *Gregorius* and *Hermogenes* should be; though some are so bold as to make conjectures. However, they both fetch'd the Original of their Collections from the Emperor *Adrian*; who is, by several Writers, named,

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ἡ δὲ ἐκείνη
τοὶ ἐκ τῆς
μὲν αὐτῆς
σφαμῆς.

Decurionum
Silentiarii
meritis pro-
cati conlata
eos beneficia
que Dominus
Filius noster
Valentinianus
semper Augu-
stus erga eos con-
tulit, confirma-
mus, &c.
L. ult. Cod. T.
Decurionibus
& Silentiariis
Dat. 18. Cal.
Apr.

A. I

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Theodosio
16. & 1
sto, Cons.

Vide Gothos
Prolegomena
ad Cod. Th.

as

et. 4. as a Prince who altered and reformed the Law, and perhaps chiefly upon this Account; that, in his time was framed the *Edictum Perpetuum*, which was to be a standing Rule for Law, and an Epitome thereof; of which these Writings were generally Comments, which now are found in the Pandects, and the method of which was followed by *Hermogenianus*, in his Code; who lived, as several conjectures would persuade us, during the Government of *Constantine* his Sons. And, probable it is, that both of them being Pagans, and finding many old Customs to be altered by Christian Princes; out of zeal to the ancient Constitutions, that they might not be forgotten, they made those Collections.

42. That Christians might not be behind with them herein, the *Theodosian* Code was at this time composed; in which were collected such Constitutions as had been made by the Emperors of our Profession, from the time of *Constantine*, who, by *Fulian* and his fellow Pagans, was railed on for an Innovator, though he took away the doubtful tricks and ambages of the old Law, and brought it down to a Conformity with the goodness and mercifulness of Christianity; and especially, with that morality and opposition to Vice, which true Christians, according to the indispensable Rules of their Religion, own to be necessary for the attainment of that happiness which it proposeth. But *Theodosius* signifies in the Novel which this year, on the fifteenth of *February*, he published, for the confirmation of this his Code: that, The great loss which Professors of Law were at, how to regulate their Studies, was the great motive to this his undertaking. For, the Books of Law were so voluminous, that they knew not where to begin or fix: and that proved so great a discouragement, that he complains how few in his time were eminent in this Study. To prevent all confusion, he commands, that, after the first of *January*, this Code be made use of in all Decisions, as the Standard of Law. And, unwilling to defraud of their due praise those who assisted at the Collection, being Men of approved Fidelity, famous Learning, and to be compared with the Ancients, He makes mention of *Antiochus*, who had been both *Praefect* and *Consul*; *Marcellinus*, who had executed the Office of *Quaestor* of the Palace; *Martyrius*, at present a *Comes*, and his *Quaestor*; all three Illustrious in Dignity. To them he adds five more, and all of the Title of *Spectabilis*; as *Sperantius*, *Apollodorus* and *Theodorus*; all *Comites* of his sacred Consistory: *Eugenius*, his *Comes*; and *Magister Memoria*: and, in the last place, *Procopius*, a *Comes* also, who had been *Magister Libellorum*. At the close of the Law he calls *Florentius*, the *Praefectus Praetorio* of the East, to whom he directs it, his most dear and most loving Parent; and orders his Illustrious and Magnificent Authority, to which it was a familiar thing to please Princes, by his published Edicts, to cause this Decree of his Imperial Majesty to come to the knowledge of all People and Provinces. It bears date, as we said, on the fifteenth of *February*; but the fifteenth Consulship of *Theodosius* is corruptly set for the sixteenth; as many Constitutions do evidence in his Code, which were made after that of his fifteenth Consulship, and as the Reader hath seen.

*Theod. Novel. 1.
Dat. 15. Cal.
Mart. Theodosio
A. Cons. 15. Et
qui fuerit nunc
census.*

43. The main thing he propounded to the Compilers was, To extricate the Laws from tediousness and obscurity wherein they were involved, by cutting off the Prefaces and other Circumstantial; whereby, though the memories of Lawyers might be eased, yet History could not but suffer in its Evidence and Perspicuity. That this Code may the more obtain, he forbids any Constitution, for the time to come, made by his Son *Valentinian*, to be of force, except it be first intimated to himself; and others going out in his own name, to be Authentical, if not contained in his Code; except relating to the Militia, and matters of Expenses belonging to the *Palatine* Offices. But of the profitableness of this Book let the Reader, by the use he sees now made of it, judge; and how far it came to be received for Law in after times, both by the *Romans*, and Barbarous Nations we shall in due time discover. Now that we are speaking of Books; we must take notice of another very useful one, compiled about this time, at least, compleated; and that is, the *Notitia* of the Empire, of which we have made so much use in this Volume; which both gives so much light, and receives so much illustration from the Code. It's inscribed thus, *The Notitia of all the Dignities, as well Civil as Military, in the Parts of the East, and of the West*: and in it, indeed, is contained the Forces, Garrisons, Magistrates, Ornaments, and Strength; in a word, all the Greatness and Importance of the Empire, in admirable order and method. By reading of this Book, the sense of many Laws is to be made out, and many obscure places in Histories cleared.

*Notitia
mil.*

Vide Praef. Pandectarum in Not.

Sect. 4. began a Work of this nature; for with his own hand he wrote a Book wherein were contained the publick Forces, what Associates as well as natural Subjects were in Arms, how many Fleets were maintained, what Kingdoms were in subjection, what were the Tributes and Customs of the Provinces, and what the Expences were; and this he delivered to the Magistrates and Senators, whom he sent for to his House, when he had thoughts of resigning the Government. This Book was kept, and the course observed by succeeding Princes, who added and altered as there was occasion. It was called also the *Laticulum* from the shape and figure of it.

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44. But the Provinces being divided, the Magistrates increased, and new Palatine Dignities being found out, and by reason of new Enemies rising up from all Quarters, more numerous Forces being raised, all these this *Laticulum* could not contain. And therefore a new Book was made, called the *Lesser Laticulum*, and therein were set down and described the Prefectships, Tribuneships and Governments of Castles and Forts made for defence of the Limits; and this was kept in the *Scrinium Memoria*, under the Disposition of the *Quaestor*. Out of these Books was the *Notitia of the Empire* compiled, and, as we said, about this time; for as to the very time indeed there is no certainty. *Gothofred* thinks it was made about ten or eleven years before the publishing of the Code. *Pancirolos* concludes it done toward the latter end of this *Theodosius* his Reign, for several reasons. Under the *Dux* of *Egypt* it makes mention of the *Ala Theodosiana*, which was instituted in his time, and takes notice of the *Saxon* Limit through *Britain*; which name was first heard of about or after the Year CCCC. He conceives no mention to be made in it of the *Vicar* of *Illyricum*, because that Country was about this very time, whereof we write, miserably wasted by the *Huns*. And that it could not be written after the Year CCCCLV, is evident, because it mentions the *Fabrick* or *Forge* of *Concordia*, and the *Treasures* of *Aquileia*, and the *Money* there coined, whereas both *Cassiodorus* and *Marcellinus* write of these Cities being destroyed by *Attila* in that Year. In conclusion, *Alciate*, where-ever he had it, calls it, *The Breviary of Theodosius the Younger*. In the same Volume, and that set before the *Notitia*, were found Descriptions of the Old, and of New *Rome*, each divided into fourteen Regions, which, though not parts of it but kept in the Offices of the *Prefects* of the Cities were probably set before it for the notableness of the Subject. And after it, were placed the Figures of certain Engines relating to War, and to coining, which it seems were taken out of the *Fabricks* belonging to the *Magister Officiorum*, and the *Scrinia* of the *Comes Largitionum*, and added as an Ornament to the Work; all which Learned *Pancirolos* by his Commentaries hath illustrated.

When written.

45. But with some Copies of this *Notitia*, another Work hath also been found joyned, and which deserves to be mentioned as a thing of great use and advantage; a Treatise which declares the distance and Names of Cities, Towns, Garrisons, Mansions, Stations and Mutations of the *Cursus*, where the Posts, or those that made use of the *Cursus publicus*, were wont to bait and refresh themselves, and change their Horses or Waggon. This Book is commonly known by the name of *Antonine's Itinerary*, though why so called, no Man can well divine. That it was not composed by any Emperor that bore that name, as now we find it, sufficiently appears in that it makes mention of *Constantinople*, *Constantia*, and *Maximianopolis*, Cities; and the Legions called *Spuria* and *Herculia*, which names are of later date by some hundreds of years, the Cities being founded by the persons whose names they bore, and the Legions instituted by *Diocletian* and *Maximian*. Besides, some Copies have it not *Antoninus*, but *Antonius*; *Flodoardus* and others ascribe it to *Ethicus*, an ancient Geographer; and an old Manuscript, as *Bishop Usher* citeth it out of *Dempster*, the Author of the Ecclesiastical History of *Scotland*, unto *Scotus*. But as we said concerning the *Notitia* of the Dignities of the Empire, that for the service of the State, the Prince and chief Ministers, such Collections had been made as occasion served in all Ages, and changed according to accidents, and as the Laws and Customs altered; so doubt we not, but a *Notitia*, as we may call it, of the several Cities, Stations, Mansions and Mutations was also made, kept and preserved to resort to upon occasion, for the understanding of Countries, and direction of Armies in their Marches, the *Cursus publicus*, Conveyance, of the *Annona*, and like uses: and this was also interpolated and changed as new places arose, or new Names were taken by places. The greatest Captains, as *Alexander* and *Julius Caesar*, were very careful in their Conquests to make Charts

and

De Primis
Eccles. Brit.
78.
Ardacten.
ter, Tule.
Amian. M.
cellin. p.
Cosmograph.
que tota
lio Orate
transcripta
fit, non A
fue Ethic
Julii H
Oratoris
graphia d
bit.
See Burt
Comment
upon the
nary con
cerning B
tain.

Antonine's Itinerary.

Sect. 4. and Descriptions of Countries for the benefit of themselves and posterity. The *Per-*
sians had their Countries also surveyed. Possibly what *Fulius Caesar, Augustus* or
 others began, might receive some considerable alteration in the days of *Antoninus*
Caracalla, or *Antoninus Pius*, and thence the Collection might retain his name,
 though afterward it received great alterations, according to the changes which time
 produceth. And being kept also in the *Scrinium Memoria*, or some other Office,
 as the *Latercula* were; it was thought fit for the agreeableness of the Subject, to
 be joyned and published with the *Notitia* of the Empire.

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46. The Year of our Lord CCCCXXXIX had *Theodosius Augustus*, the
 Emperor, Consul now the seventeenth time; and with him in the West was joyn-
 ed *Festus Littorius* as well as *Aetius* formerly fought prosperously in *Gall* against
 the *Goths*, and partly by the confidence of his good fortune, partly out of emula-
 tion to him, and trusting to the Aruspices and Answers of Devils, he was (for he
 was a Pagan) so far transported, as hoping to drive them out of the Country, he
 laid Siege to *Tolonse*, their City, and at first put their King *Theodorich* into such a
 fright, that he sent some Bishops to offer peace. He thought himself sure of success, and
 rejecting the motion, gave battel to the *Goths*, who bought the Victory very dear,
 but the Victory they got, and with this addition, that the confident Pagan Captain
 was taken Prisoner, and carried captive into that City which he doubted not but
 to enter in Triumph, where at length he miserably perished, pitied by his very En-
 emies, as *Salvian* writes. *Valentinian* receiving the News of his Defeat, and the
 loss of such an Army, commanded *Aetius* to haste again into *Gall*, to repair the
 Breach that had been made upon the Roman Interest; and his very coming had such
 operation upon the imaginations of the *Goths*, that they presently desired a peace,
 which was mediated by *Auitus* then *Præfectus Prætorio* of that District.

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Theodosius A.

17. & Festus

Littorius

Coff.

Littorius de-
scribed.

Præfectus Prætorio

47. But while *Aetius* was busie in quenching the flame kindled in *Gall*, a great-
 er broke out in *Africk*, where *Genserich* raging with all imaginable liberty through-
 out the Country, at length could not forbear setting upon *Carthage* it self, after the
 wealth whereof he sorely thirsted. And the State of that City was truly so great
 and splendid at this very time, as might very well tempt and allure a Man of his
 principles to be dealing with it. *Salvian*, the more to aggravate the crimes, the
 Luxury and Debauchery as of all the *Africans*, so of the present *Carthaginians*, presents
 his Reader with a prospect of its Glory. He sets it forth as always emulous to *Rome*;
 in old time as to Arms and Valour; afterwards as to Splendor and Dignity; as the
 greatest Adversary of the *Roman* City, and another *Rome* in the *African* World;
 what Discipline soever is wont either to procure or administer the Interest and
 Greatness of Places was at this time in it to be found. There were all Instruments
 of publick Offices or Employments. There were Schools of the Liberal Arts; there
 were the Shops, as he terms them, or Work-Houses, of Philosophers; in
 a word, all Accommodations for Languages and Manners.

Genserich falls
upon Carthage.Description
that City.

48. And not only so, but it was furnished with Soldiers, and such as com-
 manded Military Men. There was to be seen the honourable Port of a *Procon-*
sul, a dayly Judge and Governour, who, as to Name and Title, was indeed a
Proconsul, but a *Consul* as to power and greatness. There were all sorts of Offi-
 cers, and differing amongst themselves as well in Degree as Titles, and in every
 Street and Lane those who in a manner governed all the members of the City
 and People. This he grudges not to declare, but is ashamed when he comes to
 speak how this City swarmed with all sorts of Vices; how it abounded with all
 kinds of Iniquities; how full it was of Tumults, but more of Turpitudes; full of
 Wealth, but more of Vice; how the Inhabitants surmounted one another in the
 naughtiness of their Wickednesses; how some contended with others in Rapa-
 city, others with their Neighbours in Impurity; some languished by drinking
 too much Wine; and others were bursten almost with Gluttony; some were
 crowned with Garlands; others were moist with Ointments; but all ruined
 with various sorts of Luxury; almost all destroyed by one death of Errors; not
 all sotted with Drink, but all drunk in several sorts of Sins. You would ima-
 gine, saith he, the People not themselves, not to be in their Wits, but such as stumble,
 fall, and break their Necks, reeling by Troops after their drunken Bouts, no-
 otherwife than as the *Baccha*.

Vices of
Inhabi-
tants.

49. He taxeth them with injustice and oppression of Widows and Orphans,
 and especially insists upon their Impurity and Uncleaness, with which all Corn-
 ers of the City stank. By this we might judge of a Revolution near at hand,
 Vice the usual Harbinger being so brisk and daring. And it came not far behind,
Carthage

Sect. 4.

*Genferich his
Rage and Cru-
elty against
them.*

Carthage being taken by *Genferich* this *October*, some say the nineteenth, and some the three and twentieth day. *Prosper* writes, that he got into it by treachery of peace, or a pretence to friendship; but being got in, that he seized on all their Wealth, and turned it to his own use, torturing the Citizens after divers sorts and manners. That he abstained not from rifling of Churches, which he turned from their Religious Use to be the Habitations of his Men. In sum, he bore himself cruelly towards the People, but was especially an Enemy to Nobility and Religion, so as he might seem to make War rather against God than Man. *Isidore* compendiously relates, that violating the Religion of an Oath, he seized on *Carthage*, wasted *Sicily*, besieged *Panormus*, spread the Plague of Arianism throughout *Africk*, expelled the Priests of the Church, and made many Martyrs. Others tell, how having made Captives a great part of the Senators, he made Proclamation that every one should bring in their Gold, Silver, Gems or rich Moveables, on all which he seized. After this manner he divided the Provinces betwixt him and his Army, reserving to himself *Bizacena*, *Abaritana*, *Getulia*, and part of *Numidia*; and distributing to his Men *Africa Zeugitana* and *Proconsularis*. The Bishops and Noble Persons he commanded to be driven away from their Possessions, and such as would not depart, to be made Slaves; which was executed upon many. In particular, he caused *Quod-vult-Deus*, Bishop of *Carthage*, and the greatest part of his Clergy to be put naked and helpless on board some leaky Vessels, who yet by the mercy of God got safe to *Naples* in *Campania*.

*Theodosius sup-
plies the De-
fects of his
Code by sever-
al Novel
• Constitutions.*

50. The East all this Year was in reasonable quiet, and gave *Theodosius* leisure to perfect such designs as he had about his Laws, of which he found some defect already in his Code, as not answering all cases which daily occurred. For now was found great inconvenience in having the Assessors of Judges to continue too long in their own Provinces, by the opportunities they had by reason of long acquaintance to be partial, and therefore *Florentius* the Praefect was commanded to suffer no such Counsellor or Assistant to continue above four Months, as the Laws formerly had ordained, under pain of forfeiture of Estates, and incurring a publick crime, except they had the Emperor's or the Praefect's leave for so doing. For the better conveyance of Corn, and the *Felix Embola*, as they called it, he was also commanded this Spring, that no Ship carrying above the Burthen of two thousand *Modii* till that was done should be excused by any privilege or immunity soever, however procured, or pretended to, though under the Emperor's own hand, which he is required to observe also in general in all Immunities granted contrary to Law or the publick Utility. But such Vessel thus withdrawn shall be forfeited and sold; and this, *Florentius* is commanded by his Edicts to signify. Great Complaint was made also this Spring concerning *Advocates*, how the *Curiales* forsook their Charges, and filled the Courts of the Praefects. To prevent which inconveniences, *Theodosius* thought fit to limit the Number of *Advocates* of the Praefects Court of the East, to that of one hundred, and that those of inferior Judges might be duly and fitly served with Pleaders, he took care for preserving them from the violence of great Men, and having other Burthens imposed upon them. And in *September* following, he thought fit to extend all Immunities granted to the *Advocates* of the Praefectship of the East, to those that pleaded in the Court of that of *Illyricum*, by a Rescript directed to *Thessalius*, who was now Praefect of that District.

51. *Florentius* in *June* acquainted his Master with another Miscarriage, for which he also received thanks. It had been also an usual practice to beg those publick Lands which in the East were appointed to publick Charges; as the defence of the Borders, the maintenance of Soldiers upon the Limits, as also those that belonged to the Patrimony of the Prince, and Pasture Grounds, so as the charge of those Grounds exceeded the Profit or Revenue. *Theodosius* acknowledges this to be very ill Husbandry, and so strictly and severely prohibits the practice of begging those Lands, or bringing them into private hands, that any such Beggar, or any Office which shall admit such a Petition, though backed with the Emperor's own order, he will have incur no less a Fine than of fifty pounds of Gold. We have formerly told the Reader how it was the custom for the Emperors Houses and Places to have Titles or Inscriptions set upon them, as also they had Purple Banners to distinguish them; and this *Honorius* had made unlawful to be used by any Subject. When Lands were seized for his use, the Officers were wont to affix these Titles & now it was wont to be practised by other private persons, possibly to bring the Estates of those they hated into trouble and make them questionable by the Treasury,

A. D.
439.

L. 10. de Al-
lorib. &c. Co.
Just. l. 1. tit.
Dat. 13. Cal.
Febr.
L. 2. de Nis-
bus non
Sandis. Col
Just. l. 1. tit.
3. Dat. 9. li.
Apr. & L.
tit. 15. Tit.
sui de Nis-
ultra duos
&c.
Nov. tit. 16. de
Postulacione
hinc de sum-
tit. L. 5. de
vocatis &
Cod. Just. li.
tit. 7. Dat.
Cal. Mart.
L. 7. de Ad-
catib. &c. tit.
tit. Dat. 6. li.
Septemb.

Nov. Tit. 12.
& rhinc de
pra. L. 1. tit.
Fundis Prae-
monialib. Co.
Just. lib. 11
61. Dat. 6. li.
Jan.

t. 4. fury, inſomuch that *Theodoſius* thought fit to make it no leſs than capital for any perſon of mean condition to affix any ſuch Titles or Banners to the Eſtates of private Men. And if he were a *Curialis*, or of higher condition, he puniſheth him with Deportation; it being lawful for any to break or rent them ſo affixed, without being proceeded againſt for ſo doing in any Court, upon pain of three hundred pounds of Gold to be incurred by any Judge, or his Office, admitting ſuch Accuſation. *L. 2. ut Nemo privatus titulis, 28. Cod. Juſt. lib. 2. tit. 16. De tit. 15. C. 11. Juſt. ad Florentinum.*

52. The Office and Dignity of a *Præſectus Prætorio* was ſo high, that there was no appealing from him; and eſpecially if the Sentence was given for the Court, or aſſerting of his Jurisdiction. But *Thalaffus* the *Præſect* of *Illyricum* was ſo honeſt, as to let the Emperor know the extravagance of this Law, or Conſtitution, and of what injuſtice it was full, that people ſometime injured by an unequal ſentence could have no remedy. *Theodoſius* acknowledged the reaſonableneſs of his advice, and though he did not grant a formal appeal, yet in caſe of ſuch oppreſſion ſuppoſed, though the ſentence had been for the Court, he gave free liberty for any to ſup-
 plicate, himſelf, for relief againſt ſuch ſentence, which if they did within two years, the buſineſs ſhould be heard, or elſe the ſentence remain ſettled and valid. *Nov. 1. Th. 1. Dat. 3. Id. Aug.* He bids his illuſtrious and magnificent Authority, whom, according to the cuſtom, when a *Patritian*, he terms alſo *Parent of the Auguſti*, to take notice, that that Conſtitution which made it unlawful to ſupPLICATE againſt a ſentence paſſed for the Court, is utterly repealed and null, and that it ſhall be lawful to offer Petitions againſt the Cognitional Sentences of his Bench, within two years, to be accounted after the ſucceſſion of the Juſtice. In concluſion, that the profit ariſing from this Law be not concealed, he orders him by his Edicts to cauſe it to become known to all Men. *Florentinus* the *Præſect* of the *East*, and *Exconſul*, acquainted him about the ſame time, how many of the *Curiales* of his Diſtrict aſpiring to the honour of Senators, by reaſon of the Burthen of *Prætorſhip*, were ſo exhausted in their Fortunes, that they were not able to ſupport the Charges of the Corporations. For redreſs of this Grievance to the Country, *Theodoſius* wrote to the Senate of *Conſtantinople*, and putting them in mind how it was their Duty, under him, and by his direction to look to the Concernments of the State, forbade, that for the time to come any of theſe Men ſhould aſpire to the Senatorian Dignity, and the Society of *Clariffimi*. And for ſuch as had already obtain'd it, but as yet had not undergone the *Prætorſhip*, that they ſhould be excuſed from that Charge the better to enable them to perform what was incumbent on them in the Country. *Nov. 1. Th. 8. Dat. prid. Id. Septemb.*

53. The ſame day, or the next following, by another new Conſtitution he endeavoured yet further to ſupply what was wanting in his Code. He took notice, that there was no better way to cauſe the Barbarous Nations to ſubmit to his Empire and Victories, than by ſecuring the advantages of peace by good and whoſome Laws. Meditating both night and day how this might beſt be effected, and con-
 ſidering well the ſtate of Mankind, he imagined it a matter of no mean conſe-
 quence, to aſſiſt the Dying in making their laſt Wills; that every Man might
 leave his Eſtate as he pleaſed himſelf; that he might have his Will in his own power: that no Man might be obliged againſt his mind, either to ſpeak or hold his peace. Perſuaded as that only is a Teſtament, which contains the meer Will and Intention of the Teſtator; and the nature of man is ſuch, that ſome he loves, and others he fears; to ſome bears good will, others he ſuſpects: ſome he truſts, others he dare not employ; and yet dare not acknowledge what he thinks of each in particular. In former times they were wont to ſhew their written Wills to Witneſſes, and requite their Teſtimonies to them. But now ſuch caution not being uſed as in former Ages, and the Witneſſes inquiring into the Contents of what was written; it was come to that paſs, that perſons generally being fearful to publiſh their thoughts, and not daring to commit their ſecrets unto Witneſſes, leſt they ſhould offend thoſe who gaped after their Eſtates, they choſe rather to die inteſtate, than dangerously to expoſe their inward ſentiments. Therefore to give relief in this caſe, he declared, That it ſhould be lawful for ſuch as made their Teſtaments in Writing, if they deſired that none ſhould know the Contents thereof, to produce them ſealed up, folded, bound, or covered as they pleaſed, written with the hands of the Teſtators themſelves, or of others, and offer theſe Writings to ſeven Roman Citizens in number, deſired to be Witneſſes, to be ſigned and ſubſcribed by them. Provided the Teſtator, in the hearing of them all there preſent, affirmed the Writing to be his Teſtament, and ſubſcribed it himſelf; if he did not write it all or part, in the other parts where he ought to ſubſcribe it, and that in their preſence. This being done, & the Witneſſes ſubſcribing & ſigning *Et hinc deſcripta. l. 21. de Teſtamentis. Cod. Juſt. lib. 6. tit. 23. Dat. 2. Id. Sept.*

Sect. 4. signing one and the same day & time, the Testament should be valid, & not therefore to be of no force, because the Witnesses were ignorant what was therein contained.

54. In case the Testator was unlearned, or could not subscribe, he might make use of an eighth person, the same Solemnities being observed. But in all Testaments which were dictated, either in the absence or presence of Witnesses, he declared it superfluous to require, that at one & the same time the Testator should both have his Witnesses ready, dictate his mind, and complete the Testament. But though it was dictated or written at another time, & afterward produced, it should suffice, if at one and the same, no Act intervening, all the Witnesses together, and not at divers times, subscribed and signed it. For he decreed, that the Subscriptions and Seals of the Witnesses should be taken to complete the Testament, whereas that which wanted them was to be accounted and taken as imperfect. And his pleasure was, that the Will of the dead should not hold or bind by virtue of an imperfect Testament, except in behalf of the children of the deceased. As for a Nuncupation or Testament made without writing, he would not have it of force, except seven Witnesses at one and the same time, as aforesaid, were gathered together, and heard the Will of the Testator, or him that made the Testament without Writing, and that he was resolved to make his Will before them at the same time without Writing. In case any one made a perfect Testament, and afterwards happened to make another, the former should not be nulled by the latter, except it was complete in Law, and consummate: except in the former those were named Heirs who could not have succeeded the party if he had died intestate, and in the latter such were named, who, if he had died intestate, must have succeeded him. For in this case, though the latter writing may seem imperfect, yet the former Testament being invalidated, his second Will shall take place, not as a Testament, but as a Will of an Intestate; in which Will the Depositions of five Witnesses shall suffice: which not observed, the former Testament shall be of force, though Strangers in it were named Heirs. And in the last place, whereas things that related to the Law of Nations, might be transacted in any Language, but to the Civil only in that of Rome, he thought fit to declare, That liberty had been given to make Testaments in the Greek Tongue, and it should be lawful to leave Legacies, liberty to Slaves, and to assign Tutors in the same words, and to be valid and lawful as if named in Latine. Such Indulgence did the case of Testaments require at this time, whereas in other Ages the tempers of Men and other accidents exacted more strict Solemnities in the making of them, as ours in our own Country now seem to do, it having of late seemed fit to the wisdom of our Nation to reduce our liberty of making Wills, from almost that of Soldiers, to the severity and strictness, well nigh, of the highest Roman Laws, to prevent the grievous sin of perjury.

55. All the care he took for making of wholesome Laws, and supplying the defects of former Constitutions would be to little purpose, if a special regard were not had to such as should put them in execution; and of this he thought also at the latter end of this Year. Notwithstanding all care that had been taken, yet some persons crept indirectly into the Government of Provinces, of which Theodosius having notice, probably from Florentius himself, at the latter end of November he sent him an express order by way of Rescript or Edict; That no persons should be admitted to such Governments, as thought to attain them by ambition or reward, but were promoted thereto by the testimony of an approved life, or of him the Prefect. And with this circumstance, that such as should be advanced to those Honours by the choice of his Seat, or the Emperor himself, should swear publicly, that, *Neither they, nor any for them had given any thing for obtaining these Governments, nor would give for the time to come, thereby breaking both the Law and their Oath: no, nor by any Title of Sale or Donation, or any other colour, or pretence of any contract whatsoever: and that for, or by reason of such Employments gratuitously received, their Salaries or Allowances only excepted, they shall receive nothing for any favour done in the time of their Governments, either while in power, or when returned to a private life.* And although, he adds, he supposes no Man so devoid of the fear of God, as by contemning an Oath, to prefer any worldly advantages before his own salvation; yet that necessity of danger may be subjoined to the fear of Salvation: if any should dare to violate his Oath, he grants free liberty of accusing both Giver and Receiver, as of a publick crime, whom he condemns in four-fold of the Value to be levied all manner of ways. That the Emperor was put upon this and several other courses for reformation of manners.

The Oath required of every Governor entering into Office.

Lult. ad
gem Julian
Repetundar
Cod. Just. li
tit. 27. Nat.
Cal. Decum
Florentio P.

4. manners, and the ease of the People, with the honour of the Prince and his Government, by *Florentius*, we cannot but believe, because of the most ample Testimony given to his publick Spirit and Generosity, by an Act of State, dated but a very few days after, and directed to *Cyrus*; who, at the end of the Year, was advanced to be *Præfectus Prætorio*.

A. D.

439.

Novel. 18. Th.
Dat. 8 Id. Dec.

56. Let Histories, saith he, deserve (or obtain) belief from present Examples, and let Antiquity be freed from all Ambiguity, when it tells us of Great Men, who preferred the Commonwealth before their own Estates. We may behold the Illustrious *Florentius*, who, supported by the Administration of the *Prætorian Præfectship*, by the emulous vertue of an excellent mind, strives, not only with the Merits of our Ancestors, but with his own great Deserts, toward the Commonwealth; the Reputation whereof he hath vindicated, not only by his Counsel and Prudence, but also by his Devotion and Munificence, from the blot and infamy of shameful Turpitude. For, observing how by the damnable craftiness of Pandors, the inadvertency of the Antients was circumvented, under pretence of a certain Lustral Prestation, it being lawful to exercise a Commerce of corrupting of Chastity, out of a pious inclination of propagating an Universal Modesty, he suggested to us, that it was one part of the Injury of the present times, that Pandors were permitted to be in the City, and that the Treasury was furnished by their filthy Traffick. And, though he knew that we abominated it, and had no respect to the Tribute; yet, lest any damage should come to our *Aerarium*, he offered us so much of his own Estate, as, out of the Revenues of which, as much profit would arise as was wont from that wretched sort of Trade. Wherefore, willingly embracing his forecast and munificence, by this lasting Law we ordain, that if any hereafter shall attempt to prostitute any Slaves, whether his own, or belonging to others; or Bodies of Persons of Free Condition, but hired at a certain rate: these miserable Slaves being set at liberty, and the Persons of Free Condition being loosed from their impious Service: such an one, being first grievously lashed, shall be banished out of the Limits of this City, in which he presumed to exercise his wicked Craft; for an example to, and the amendment of, all other Men. Therefore, *Cyrus*, the most dear Parent of Emperors, see that your Illustrious Authority take order, that these things which we have decreed, for preservation of publick Honesty, be observed with all due veneration. Otherwise, your Office, if it neglect our Precepts, shall incur a Fine of twenty pounds of Gold. Thus we see *Theodosius* accepted of *Florentius* his Offer; and in way of recompence, gave a publick Testimony to his merit; which was as little as he could do.

57. For, his care extended to several other things which he urged the Emperor to reform. Courtiers and Soldiers, as also, Merchants, by reason of their Employments, sought to evade publick Charges and Taxes, by pretending they were exempt from the Jurisdiction of the ordinary Governors of Provinces: but, by a new Law, he procured him to declare against, and null all such pretended Prescriptions against ordinary Courts of Justice. The Accidents of former times had provoked the Legislators to such Severity against Mothers which had Children in their care after the death of their Husbands, that if they did not provide them of Tutors, nor make Inventories of their Estates, they should be deprived of the liberty of making Testaments, and of power to dispose of any thing they had; and, besides that, be branded with Infamy. It's the violence and contagion of the Disease which makes the Medicine and Application violent; and when it abates of its Symptoms, the force of these must also abate. Women were now become so careful of their Fatherless Children, that *Theodosius* thought fit to remove so heavy a penalty: yet, as a Father of his Country, he thought himself bound to provide for the security of Orphans. And that, as he saith, in cutting off superfluous and inhumane practises, he might not seem to promise Impunity to Delinquents; in the first place, he will have such as are to succeed a Child, in case of death, to know, that if, within a year after his Father's death, they do not provide him a Tutor according to Law, they shall be excluded from inheriting his Estate if he die before fourteen years of Age. And the same thing he will have observed, as to such Mothers, which having undertaken the Guardianship of their Children, contrary to their Oath, fly to second Marriages, before they have caused other Tutors to be chosen, and given account of the management of their Estates, and put them in possession of them. The second Husbands of such Mothers he will have obnoxious to the Children; and their very Estates obliged, as by way of Pledge, to answer for the Accounts which their Wives ought to make to the

Novel. 14. Th. &
hinc desumpta,
L. 1. In quibus
causis Militan-
tes, &c. Cod.
Just. lib. 3. tit.
25.

Novel. Th. 5. &
hinc desumpta,
L. 6. In quibus
causis pignus,
vel Hypotheca
faciunt contra-
hatur, Cod. Just.
lib. 3. tit. 15.

Sect. 4. Guardians of Children by their former Husbands. "In the last place, we shall only take notice, that toward the end of this year, *Theodosius* again was forced to require the Laws to be put in Execution, that were made to prevent begging of Estates; as that, It should not be within a Year after the death of the Party, or the Exchequer coming to have Interest in the Estate." This he did, as he saith, at the suggestion of the Illustrious *Marcellinus*, the *Comes Largitionum*, and then executing the place of the *Comes Rei Private*; which is remarkable, that both these great Offices should be managed by one person. But the Edict is directed to *Florentius*, *Praefectus Pratorio*, as the former; who, by his Edicts, exposed it to view at *Constantinople*, on the nineteenth of *October*.

The miserable condition of the Provincials in *Africk*.

58. We are now arrived at the CCCCXL Year of our Lord; wherein the Emperor *Valentinian* was Consul the fifth time, with *Anatolius*, Consul for the East, according to his name. *Genferich*, King of the *Vandals*, after his taking of *Carthage*, still prosecuted the War in *Africk*; and now came, as was said, to a Partition of the Provinces he had subdued. To himself he reserved the Provinces *Bizacena*, *Azuritana*, *Getulia*, and part of *Numidia*: and to the Army, distributed by way of Inheritance, *Zengitana* and *Africa Proconsularis*. They coming, and taking possession, every where, the poor Provincials were turned out of their Estates and Dwellings, and the Bishops and Clerks thrust out of their Churches: which put the Bishops and Nobility upon going to the Tyrant, and petitioning him to have some compassion on them in this their great distress. But he sent them this cruel Answer; that he had resolved to leave none of their Name or Kind, and wondered that they durst desire such matters of him. That Kingdom he had thus obtained, he now set himself, by all means, to establish: and for that purpose, knowing that the Citizens of *Carthage* were Men of Spirit, would be thoughtful and active, and not easily submit their Necks to his Yoak, who could scarcely be brought to it by the *Romans*, he siezed on all they had; and drove them to such Streights, that he forced the chiefest of them to pass the Sea, into *Italy*.

59. This did well please him, that he should not leave such Enemies at his back: for, to carry on his great design, he resolved to fall upon, and, if possible, to bring under his obedience the Coasts of the Islands, and others which, on the *Mediterranean Sea*, lay opposite to *Africk*. And getting a Fleet together, he passed over into *Sicily*; which he grievously harraised and distressed. What resistance was particularly made against him we know not; but we are told by an Epistle written by *Theodorich*, King of *Italy*, in commendation of *Cassiodorus*, his Chancellor, to the Senate of *Rome*; that *Cassiodorus*, his Grandfather, a person dignified with the Title of *Illustris*, which could not be denied to his Family, freed *Sicily* and the *Bruttii*, by his Arms, from the Incurfions of the *Vandals*; so as he deserved the Primacy of those Provinces which he defended from so cruel and sudden an Enemy. He concludes, that the Commonwealth ought it to his Valour, that *Genferich* did not then invade those neighbouring Provinces; that *Genferich*, whom *Rome* afterward found so bloody and cruel.

Theodosius secures his Revenue.

60. *Theodosius* this Year further busied his *Quaestor* in composing several Acts of State for the publick good. One for shortning Tryals, and cutting off Delays in Suits arising from Appeals; of which he assigns the fatal terms and periods, whether they lay from the ordinary Judges of Provinces, from Delegates or Superior Magistrates. He was well pleased with the fidelity of *Eudoxius*, his *Comes Rei Private*; who acquainted him, toward the latter end of *May*, with a custom he observed that some Men had got to work themselves into the Possession of his Patrimonial Lands, under pretence of some Contract, so as, not to pay the Canon, or ordinary Imposition lying upon them. By a Rescript he takes notice of his Zeal toward the publick Service; which, if it were diligently prosecuted, would preserve his Revenue from diminution. And, for prevention of such mischief, he declares, All such Contracts shall, for the future, be null where no Canon is to be paid; that all the Fruits and Profits be restored, and no Prescription avail any such person. And, if the *Palatine* Officers suffer such a Contract to be made, or a Petition to be preferred, they shall incur a Fine of fifty pounds of Gold: so as no *Pragmatick*, or *Annotation* from the Prince himself shall be of force, either to make such a bargain valid, or to remit the Fine to the *Palatines*. According to the custom, he commands that his Illustrious Authority, by his Edicts, cause this Law to be made publick.

61. *Cyrus*, the *Praefectus Pratorio*, put in also his Complaint; that, of those that wore the Girdle, the *Scholares Cohortales* belonging to the *Curia*, and such like, severally

sect. 4. severally declined his Jurisdiction, though guilty of oppressing the people, and other Enormities. To which, by another Rescript, *Theodosius* answered; and ordained, that Such Criminals should neither avoid his Jurisdiction, nor the ordinary one of Governors of such Provinces where the faults were committed. " This being published, they that were concerned, to avoid the Inconvenience, pretended the Law not to reach them: so that, at the end of the Year, he was forced to explain it by another; when he declares *Scholares*, *Comites* and *Military Tribunes* to be meant, according to the custom; but not the other armed Soldiers, or *Tribunes* commanding the *Numeri*. " This *Cyrus*, as the Emperor complements him, being now designed *Consul* for the following Year, still, by his Suggestions, put him in mind of something which tended to the publick Utility, or was to be redressed; and, in particular, he moved him in behalf of such who sometimes got some ground by Rivers forsaking their wonted Channels, and leaving some Lands adjoining to theirs, which ordinarily accrued to them by way of Allunion, as the Law term was. Now, this advantage was very uncertain; for, as it happened in one day, in another often, it was taken away, and the Possessors had nothing left to compensate the charge and trouble about it. However, the Prince his Officers were double diligent to lay claim to such adventitious Grounds, to sieze and sell them, or, at least, to lay Impositions upon them, as belonging to the Treasury. *Cyrus* did this good Office by his Information, as to procure a Rescript, prohibiting any such practice. And this farther, that if any person had drained any Fens, or, by their Cost and Industry, recovered any Pastures or Meadows, they should for ever possess them, without any burthen imposed, without being siezed or begged, under pain of a Fine of fifty pounds of Gold to be incurred by the Breakers of this Law; among whom, the Officers belonging to the *Præfect* were to be reckoned, if they promoted any such matter, or preferred any petition in order to it. "

A. D.
440.
Novel. Th. 14.
S. 2. de amota
militantibus
juri præscriptio-
ne, Dat. 11. Cal.
Octobr.
S. 3. Dat. 4. Cal.
Jan.

Novel. Th. 10. de
Alluvionibus
et palladiis
et palanis, Dat.
11. Cal. Octobr.

62. He was made sensible also, the latter end of this Year, that it was a great grievance to the people to have recourse to himself in matter of Appeals: and so he owned it; being, as he confesseth, often diverted by other Affairs, wherewith he was taken up for the benefit of the World; or, as we may conclude, by other occasions, made unfit for such intricate and troublesome business. He ordained therefore, that, In Appeals from Judges of the Degree of *Speſtabilis*, it should not be expected that matters should come before him; But if any appealed from *Proconsuls*, the *Præfectus Augustalis*, *Comes* of the East, or *Vicars*; the *Præfectus Prætorio*, and the *Quæstors* of the Palace should have the hearing: as also, from a *Dux*, if he was also a *Præſident*, the matter should be of the *Præfect's* Cognizance. Moreover, if the state of a *Curialis* or *Cohortalis* were in question, the controversy should be decided by the *Præfect* and *Magister Militum* in case of an Appeal, though the *Magister* had delegated it to the *Præſident* of the Province. These things he ordained in Edicts directed to *Cyrus*; who was therein most concerned as *Judge*; and about this Year gratified the City of *Constantinople*, by conveying Water from the *Aqueduct* of the Palace of *Hædrian*, to the Baths of *Achilles*, and those called *Nymphææ*, which had warm Water. To keep which in order, he procured Rescripts, forbidding any to make use of the Water of that *Aqueduct*. And, in case any persons in his District would obtain leave from the Prince, of deriving Water from any publick *Aqueducts* in the Provinces, they must intimate it to the *Præfect*, and to none other, under pain of an heavy forfeiture. "

L. L. 22, 23. de
Appellationibus,
Cod. Jus. lib. 7.
tit. 62.

L. L. 5. de A-
queductibus, Cod.
Jus. lib. 11. tit.
42.

tw Art of
cedence.

63. Though *Cyrus* had not had these Laws to have backed his Authority, yet might his Rules and Methods have been better observed in things of this nature, than in an other matter; the regulation of which, by another Edict, was also committed unto him. We have formerly seen how Princes have been wearied and obliged to make several Laws about Precedence; and no wonder, considering the natural ambition of Men themselves, the peevishness of Women, that delight in nothing more than place; and that great variety of Humours and Accidents, which must have been in persons so numerous as were those of Quality, inhabiting so many several Provinces. Former Laws and Rules could not, it seems, answer all Circumstances of a thing so substantial as this was. And *Theodosius* was put upon it, to declare more fully, and in better Rank and Order, what the distinction of persons should be. He let therefore *Cyrus* to understand, that Illustrious Persons, in the first place, he distinguished into five sorts. Some had actually discharged Offices whereby they were rendred Illustrious. Others he termed *Vacantes*, who being present at Court, had deserved the Girdle of some Illustrious Dignity, though they did not actually then discharge it. The third sort was of them who being

L. 2. ut Digni-
tatem ordi ser-
varet, Cod. Jus.
lib. 12. tit. 8.

Sect. 4. absent, had the same Girdle of Illustrious *Vacantes* sent unto them. The fourth " of such who, without Administration or Girdle, had obtained the Honorary Dignity by virtue of *Codicils* or Letters; and were present in *Comitatu*. And the " last, such as being absent, had the said *Codicils* of Honorary, though Illustrious, " Dignity sent to them. " All these, he declares, shall take place as now mentioned.

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64. But such as actually execute such Offices, though the *Comites Rei Privatae*, shall take place of all *Vacantes*, and Honorary, or Titular Persons. But, as for the *Vacantes*, he doth not think fit they enjoy just the same privilege; but that they only take place of all such merely Titular and Honorary as are of the same Rank and Quality, not all Illustrious whatsoever: for example, that a *Praefectorian* precede a *Quaestorian*, but not a *Quaestorian* a *Praefectorian*; and in like manner, a *Quaestorian* a *Quaestorian*; not that a vacant *Comes Thesaurorum*, or *Comes Rei Privatae*, precede an Honorary *Quaestorian*, or *Magister Officiorum*. As for those in actual Employment, he farther will have it known, that for such he will have taken, and esteemed those *Vacantes*; to whom he commits some Employment, Charge or Dignity; though it be not of the Rank of Illustrious, but perhaps, of *Clarissimus* or *Perfectissimus*. In case, to such persons he had in Sacred Consistory committed, or should commit, any ordinary Dignity; as if, to a vacant *Magister Militum*, the Charge of War, he should be reckoned amongst the *Administrantes*. For, he demands what reason there is why *Germanus*, whom he calls *Vir Magnus*, should not go for a vacant *Magister Militum*; to whom he committed the care of the War against his Enemies, meaning the *Vandals*, against whom he was sent with a great Navy. Or, why the most excellent *Properadius* should not be said to have discharged the *Praefectship*; by all whose illustrious dispositions (in the room of the *Praefectus Praetorio*) the Soldier, in his Expedition, hath abounded with plenty of Provisions; which we have said to have been the main Charge and Task of that great Officer.

65. But, when Summer was come, the Alarm was given to *Italy*, of the Preparations of *Genferich*, and his great Design, wheresoever it would fall. We cannot say that this caused *Valentinian* to remove from *Ravenna* to *Rome*, that he might be in better capacity to give Relief to the Maritime Parts, which that Rover would, most probably, annoy: but we find him so much concerned, as to publish an Edict to the people, as the Text now hath it, which is said to be dated at *Rome*, if *Accepted* or *Published* be not to be read, on the twenty fourth of *June*; and that concerning the great Affair. He begins with a sort of excuse for requiring a Duty from all in general, because the good of all in general is concerned: neither doth he believe it will seem troublesome to the Provincials; that, seeing it belongs to the security of themselves, they should be pressed to the resisting of Pirates and Robbers. Then he declares that *Genferich*, the Enemy of his Empire, is reported to have towed out of the Haven of *Carthage* no small a Fleet; the sudden Excursion and Depredation of which is to be feared by all the Coasts. Now, although he, out of his solicitude for the publick Safety, had placed Garrisons in divers parts; and the Army of his Father, the most invincible Prince *Theodosius*, drew near; and that most excellent person, *Atius*, his *Patritian*, would shortly arrive with a great power of Men, as he believes: moreover, the most Illustrious *Sigisfundus* the *Magister Militum*, watched, with a Body, both of his own Soldiers, and Confederates, for the defence of both Cities and Coasts: yet, because in the Summer Season it is altogether uncertain where the Enemy may put in, by this Proclamation he admonisheth all his Subjects, with a confidence in the *Roman* Power, and with such Courage as becomes them, to undertake the Defence of their own Estates and Relations, and that with their own Men if need be (publick Discipline always preserved, as also, the modesty that belongs to Freedom) and to make use of such Arms as they can; and, by a faithful Agreement, and a joyned Shield, as it were, protect his Provinces and their own Fortunes, without despair utterly to lose their labour; for, every one shall enjoy freely whatsoever he shall victoriously take from the Enemy.

Valentinian, by a Proclamation, excites his Subjects of Italy against Genferich.

Novel. Valentinian introduced by Theodosius, 2. Dat. 8. Cal.

66. How much this Motive, over and above their own preservation, might work with the Provincials, we know not; but, how ever they might gain by Spoil and Plunder, they could not but be out of purse, upon occasion of the War. For besides, the Country-men their standing upon their Guard in case of Landing; if Land he should, an Army was necessary in the *Mediterranean* Parts; and, for the maintenance of this Army, an answerable Income must be raised. For this, Order

was

t. 4. was taken by an Edict, which *Maximus, Præfectus Prætorio* now the second " time, was commanded to publish, so as it might come to the knowledge of all " People and Provinces, whereby all sorts of Lands were made liable to pay the " fourth parts of the Tributes, due from the ninth Indiction, so as no privilege " should avail, or protect any, who by any Title were possessed of the Emperor's " own Lands, any belonging to the Church, or any Society of Men. And he pres- " seth it as a very idle and arrogant conceit, that any should esteem those sordid " Services and Employments, such as were repairing High-ways, the making up " of Arms, repairing of Walls, Provision of the *Annona*, and others, whereby " the splendor of the Empire is provided for; without which nothing of moment " can be produced; by the assistance of which the Dignity of the Empire is main- " tained, and indeed no necessary matter can be effected. The absurdity of this " conceit he much endeavours to discover, as also the folly of, and Detriment ari- " sing from, that study and endeavour of rich and dignified persons, to ease them- " selves by throwing Burthens from their own Shoulders upon the Backs of mean " and insolvent persons: how penny-wise, and pound-foolish such persons are. " This Edict was published either this or the following Year; but whether of the " two we cannot certainly say, from the obscure date of it, as now the Text is cor- " rupted; but that it was in relation to these imminent dangers which threatened " Italy and the adjacent Provinces, there's little doubt.

67. There was another thing which not only hindred the payment of Taxes, but also procured a great stop to Entercourse and Traffick, without which Taxes could very badly be paid. Whether it was because since the days of *Valentinian*, as the Reader may remember, the *Aurei* were raised to greater value more than at first was intended; and since that, others made of as small Weight, but to be of the same price and estimate, that a grudge remained amongst the People, or for other reasons; but now at *Rome* it was become ordinary to refuse the *Aurei* in payments, except undervalued, and at an under Rate. A thing of so dangerous consequence to the Government, that it drew out a Proclamation to the People of that City, whom calling by their old name of *Quirites*, he acquaints that frequent complaint was made to him, how to the disgrace of his Parents, the *Solidi* that were stamped with their Images, were refused by every Trafficker, which he could not suf- fer to go long unpunished. Therefore all are to take notice, that it shall be capi- tal to any Man whatsoever, who shall refuse any *Aureus Solidus* of just Weight, either of the Lord his Father *Theodosius*, any of his sacred Relations, or of for- mer Princes, or take it at a lower Rate. He expressly commands, that a *Solidus* be not put off under seven thousand *Nummi*, which had been received for seven thousand two hundred; the reasonableness of price being the best course to se- cure the advantage of the Seller, and promote Trade. And he signifies that in refe- rence to a matter of great concern in this Affair, he had caused just and fit Stand- ards of Weights to be made, the observance of which, as also of the Rule given about the *Aurei*, the *Præfect* of the City and Office shall procure under a penalty of ten pounds of Gold. " We have seen how *Valentinian* took order, that the Burthens of the Soil, or Tributes belonging to the Soil should be paid every where, notwithstanding Indemnity was pretended by the Quality of the own- ers. But besides the quality of persons in general as Ecclesiastick, or as belonging to some Body or Society, sometimes personal privileges were wont to be procured; with which however Princes might play at some times, yet generally the thing was very bad, and in such days so full of danger, and requiring such expence, it was altogether mischievous. As such, he now owns it to *Maximus* the *Præfect* by another Rescript founded upon his suggestion, and commands that an equality of Taxes be observed, and all such privileges granted to be of no force. "

68. It's not to be doubted, but in all these Charges and Impositions the City of *Rome*, and reason there was, had her share; yet being deservedly look'd upon as the Head of the Empire, and procurer of all that Grandeur of which Prince and People were possessed, she was wont still to be courted, and could not brook any disrespect from the greatest of them. But of late had risen a great dissatisfaction and tumult about the great concernment of Trade. For as in all great Cities where there is confluence, and especially of Nobility, Strangers are wont to flock, and obtrude their own Wares, sometimes their Native Commodities, and other- whiles artificial Works made (they pretend, and fantastick People imagine) with greater invention and curiosity; so at this time certain *Greek* Tradesmen flocked thither, such as they called *Pantapole*, Sellers of all things, or, more truly, Jacks

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Novel. 21. Va-
lentiniani inter
Theodosianos.
Dat. 10. Cal.
Mart. Ravennæ:
Accepta prid. I-
dus Mart. ubi
sup. post Consula-
tum Valentinia-
no 5. & Anato-
lio Cons.

Novel. 25. Va-
lentiniani inter
Theodosianos.
Dat. 13. Cal.
Febr.
Parentes voca-
bunt Impp. per
quos Imperium
acceperant.

Novel. 39. Va-
lentiniani inter
Theodosianos.
Dat. 8. Cal. Febr.

for
the
the

Sect. 4.

Stirs at Rome about the *Pantapole*.

of all Trades, than ours can be imagined. For with them the *Tabernarii* or Victuallers had a great quarrel, as eating their Bread out of their Mouths; and they moved so great indignation against them amongst their Fellow Citizens, that in an height thereof the *Pantapole* were driven out of the City; though we do not find it rose to that degree, as did the Uproar here in *London* on Evil *May-Day*. When they were driven out and gone, the heat abated, and all parties had time to cool and consider, neither was one sort of Trade to obstruct by its pretended interest, the good and emolument of so many thousands of People. We are now at a distance, and cannot learn what their several pretences were; but so much we learn, that *Valentinian*, or those about him was persuaded to recal these Tradesmen, and that out of his great care and study for the quiet and abundant supply of that his City, as in an Edict directed to the people it self he affirmed. Therein he tells them, that forasmuch as the *Pantapole* are a vast multitude; and very diligent in buying and selling Commodities, he will not suffer them to be any way further secluded from the sacred City, although the Dissention, and especially the envy of *Tabernarii*, rather than the utility of venerable *Rome* had removed them from trading. He will have all persons therefore to understand, that he restores to the said *Pantapole* licence and authority to return and trade in the City, that through his most vigilant care, plenty may be thereby afforded to the People; and in times so suspected and dangerous, the City may be inhabited by a greater multitude; provided, that if any one exceed in his Dealings the set and allotted Rates or prices, he be punished according to the quality of the Fact, neither an whole Body be excluded for the fault of one or two.

Valentinian composeth them, and provides for the War.

69. By this means he Pretends abundance would be procured to the Citizens, and their number be supplied; but how this would down with them we know not, without that sweet and pleasant draught immediately following. For, he tells them, his purpose is to take away all their fear and solicitude; so as all by virtue of this Edict may assure themselves, that none of the *Roman* Citizens, none of the *Corporati* shall be compelled to go to War, but only take care, as need shall require, in securing the Gates and Walls, and that by Disposition of the Illustrious, the *Præfekt* of the City, whom he orders to bestir himself so much therein, that from the repairing of them none may be excused. In conclusion, several Lands he excuseth from the payment of seven *Solidi* lately cessed upon every thousand (Acres) provided, they undergo other Functions. But what liberty he allowed to the Citizens of *Rome*, the *Provincials* took, and greater to themselves, not only in not going in person to the Wars, but harbouring such *Tirones* and older Soldiers as were already listed and entertained in the service. They that were most blamed, were the *Coloni*, *Possessors*, or *Tillers* of Lands in the Country, who took them in, and harboured them, to plough and manure their Grounds, and some Tradesmen in Cities also employed them in their ways of Drudgery. The Emperor, in the Exigency of his Affairs, commands *Sigiswald*, the *Comes* and *Magister utriusque Militiæ*, that every one concealing in such manner a Desertor, in way of punishment find three others for the Wars. That such *Colonus*, *Farmer*, or *Aktor*, if he be serviceable, be presently pressed; and if the thing be done without the knowledge of the Lord of the Soil, they shall suffer death. Yet to prevent all Calumniation, all persons are enjoined that find any such Fugitives upon their Ground, within thirty days to have them forth-coming before the Governor of the Province, who is to see, that they be sent to their own Standards, and undergo convenient punishment. And such Judges, if they neglect to execute what is enjoined, shall fine in ten pounds of Gold, and their Office in the like Sum. There was need he should add the Clause against Calumniation; for the *Palatine* Officers were now so ever busie in exacting what Tributes were payable to both the Treasurers, that he was constrained upon information of *Maximus*, to inflict upon such Offenders the penalties due to Sacrilege, and to Proscription. He will have the Governours of Provinces obviate their Rapines, and refer to the *Præfekt* their manner of punishment. But because both the great Treasurers were wont to find excuses in this Affair, he will not have them meddle in sentencing either the Judges, or *Curiales*, (which yet he revoked two years after) but make information both to the Emperor, and the *Præfekt*, who shall take such order therein, as shall be agreeable to the matter depending. But so did *Valentinian* this year employ his Sword and his Pen both in the prosecution of the same Designs.

70. The Consul of the Year CCCCXLI was *Cyrus* the late *Præfekt*, for the

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Novel. Theodosian 40. 41. Theodosian. Dat. 6. Nov. Mart.

Novel. Valentinian 41. Theodosian. Dat. 13. April.

Novel. Valentinian 42. Theodosian. Dat. prid. Jun.

Sed huius quantum dimites S. R. S. Spec. Sclio 2. intercidit.

A. 1

44

Cyrus Co

Sect. 4.

the *East*, and he alone, why *Valentinian* made none in the *West*, we know no other reason than the dangers which impended; for when such omissions have happened, it hath usually been when the *Barbarians* have troubled or invaded the Empire. This *Cyrus*, a Pagan by Religion, and by Profession a Poet, wound himself much into the favour of *Endocia* the Empress, a Lady much given to the Studies of that Nature. And by this means he came to rise to so great preferments, being assisted by his natural parts. For he was very dextrous, both in the *Militia* of the Camp, and of the Palace. That Year wherein *Carthage* was taken, he commanded an Army, as *Evagrius* writes; in the following arrived at the Dignity of *Præfectus Prætorio*, and was designed Consul for this. Some observe also, that he was *Præfect* of the City two years before, if not mistaken by the false writing of the Directions of some Novel Constitutions; however, afterwards he bore that Office in the third Consulship of *Ætius*. All this while he was born up by the power and interest of the Empress; but afterward when the Emperor being displeased with her, she left the Court, and retired to *Hierusalem*, his Enemies took heart, and being circumvented by their Wiles, he was forced to cast Anchor in Christian Religion, and was made Bishop of *Cotyseum* in *Phrygia*, where he continued till the time of *Leo*. This Year *Theodosius*, provoked by the insolent demeanour of *Genseric* in *Africk*, especially after he had caused *Sebastian* to be made away, who having been ordered by *Valentinian* to remove thither out of *Spain*, carried himself more like a Friend than an Enemy to him, sent an Army against the *Vandals*. A Fleet of sixty Ships, and an Army thereon embarked, he committed to the conduct of *Areobindas*, *Germanus* and *Anaxillas*, who sailing into *Sicily*, there loitered and mispent their time, and then crossing over into *Africk*, carried more terror than execution along with them. Having little or nothing performed, they returned into *Sicily*; and the effect of their Expedition was this, that *Genseric* perceiving what power *Theodosius* had, which at another time might be better managed, thought it best to send to *Constantinople*, and deal about a peace. As this Expedition and the Year was barren as to any Martial Actions, whatever Shew this Fleet did make, so neither did it afford any Civil Acts of State, much requiring that mention should be made of them. Except we remember how *Theodosius* so well satisfied of the usefulness of the *Defensors* of the Cities, commanded that none should quit that Employment without his leave. And how he ordained, that such Officers as were called to account for Exactions and Concussions of the Provincials should not demur to the Jurisdiction of the Provincial Courts.

Fleet sent
by Theodosius
against Genseric
miscarries.

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441.

Baronius ad h.
An.

Lult. de Defen-
sorib. civit. Code
Just. lib. 1. tit.
15.
L. 2. ubi quis de
Civili &c.
Cod. Just. lib. 3.
tit. 23.

Huns fall
to the Em-
per.

71. The Year CCCCXLII had for Consuls *Dioscorus* and *Endoxius*, Men of no very great account of themselves; but their Consulship became too famous to posterity. The *Huns*, who formerly, as we have written, mediately became Authors of so much mischief to the Empire, by driving the *Goths*, *Vandals* and *Alans* out of their ancient Seats, and forcing them to pass *Ister* and the *Rhine* into the *Roman* Territories, now having taken their course in that part of *Scythia*, and brought under their cruel Dominion all the People of those Quarters, being taught the way by the Fugitive Nations, and hearing how the Emperors were intangled in a War with the *Vandals*, thought their time ill spent, till they could pierce also into the Provinces, which they were too apt to think, richer than perhaps they were; but if they could do mischief, though themselves no good, they should be sufficiently contented. For after the death of *Optar* their King, the Government was devolved upon two Brothers, the Sons of *Mundzuch*, by name *Attila* and *Bleda*, Men who were robust and courageous, but seemed not to abound with so much courage, as an hatred against Mankind it self, and a thirst after death and destruction of Mortals. With a vast number of *Huns* and other such like Nations they passed the *Ister*, where the *Prætenture*, or Garrisons upon the Bank were of no force at all to withstand them, though they were wont to sustain ordinary Shocks, and struck some awe unto the Barbarous People living over against them. But this Storm of the *Huns* bore down all before it, and fell so violently upon *Thrace* and *Illyricum*, as *Paulus Diaconus* writes, that all the Forts and Cities it overwhelmed with servitude and misery, except *Hadrianople* and *Heraclea*, formerly called *Perinthus*. Particularly we are told, that *Attila* invaded *Mæsia*, and *Bleda* fell into *Thrace*, where they filled all places with Slaughter and Burnings; to be sure *Naissus* and *Singidunum*, two Cities of *Mæsia prima*, suffered extremely by them. *Theodosius* could not but be exceedingly concerned to hear of this Irruption, having been sufficiently taught from experience of his Forefathers, what terror such incursions were wont to carry along with them; and he thought it best also to make some resistance at the first, and put some stop to their motions.

A. D.
442.
Dioscoro &
Endoxio
Coss.

72. For

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The Captains
sent against
them fall into
dissention.

72. For this purpose he sent against them *Arnegistus* and *Fohn*, both flourishing with the Title of *Magister Militum*, and furnished with a choice Body of Men. And to answer his expectations, they both engaged in very sharp Disputes; *Arnegistus* with *Attila* in *Mæsia* near *Marciaonople*, and *Fohn* with *Bleda* in *Thrace*, and might have done well, had not the Fate of the Empire pressed hard upon it, and they fallen into dissention, which so far prevailed above all care of publick concerns, that *Fohn* was killed by the fraud of his *Æmulator*. This put *Theodosius* upon great Straits, and though he was not willing to hear of *Genferich* his possessing any thing in *Africk*, yet that he might not be overpowered by two Enemies at once, but provide against that mischief which was nearest at hand, and most threatned him, he was perswaded to listen to the Overtures made by the *Vandals*. And had not this disaster of the *Huns* so pressed him, he might possibly have made much better Terms than he did. For *Genferich* his Affairs were in no good condition in his new Kingdom, his Subjects bearing very ill his insolence, which he had contracted from his very good fortune, insomuch that they conspired against him. The Plot he discovered, and raged against many; which yet deterred not others from the like Attempt, who also miscarrying, and his Jealousies and Rage being vented against more than were really concerned; so great Slaughter he made of his Men, that he could not have been more weakened, had he been defeated in Battle. But he humbly begging peace, *Theodosius* for the reasons we have said, thought fit to grant it, and recalled his Army out of *Sicily*, which he sent under conduct of *Areobindas* and *Aspar* against the *Huns*. They concerned themselves so little for their coming, that they still went on, and having wasted *Thrace*, passed into *Macedonia* and *Greece*. These they harraressed and spoiled with more than Barbarous Immanity, as if they designed by their outrageous Acts to obliterate all Memory of the ferity of the *Goths* and *Vandals*. They even did what they listed. For so great were their numbers, and strong the resolution of their Captains, that the Attacks made by the *Roman* Officers did but whet and sharpen them to further Attempts. In the West *Genferich* having made his peace with *Theodosius*, used the same Applications to his Son-in-law *Valentinian*, who being more concerned as to the Country contended for, he had reason to be more careful as to the conditions. But it was agreed betwixt them, that *Genferich* should keep in his hands the Provinces *Byzacena*, *Abaritana*, *Gatulia*, and part of *Numidia*, and his Army retain *Zengitana*, or that they called the *Proconsular*. The rest should remain to *Valentinian*, to whom he should pay a Tribute, and give up his Son *Honorich* as Hostage, for preserving that faith, which he had already twice broken.

Theodosius constrained to
make peace
with *Genferich*.

Which also
doth *Valentinian*.

A. D.

442.

SECT.

S · E C T. V.

The Fifth Step to the Ruine of the Empire in the West.

From the Irruption of Attila and the Huns into the Empire, to the Invasion of the Western Provinces by that furious Nation.

Containing the space of Nine Years.

1. **M** *Asimus* the second time, and *Paternus* were Consuls for the Year of our Lord CCCCXLIII. *Valentinian*, as we have seen, was to receive Tribute, (if he could get it) from *Genferich* ; however, had the honour of an acknowledgment ; whereas it fared far otherwise with the Reputation of *Theodosius*. For, he finding of how little efficacy his Steel was against the *Huns* for curing that distemper, which had invaded his Eastern Provinces, resolved when such a forcible application would not do, to try what Gold might work by way of revulsion. To *Attila* he sent about a peace, and retreat, which he offered to purchase with six thousand pounds of Gold paid down at present, and promised a thousand pounds more yearly, if he would keep himself and his Men within his own Bounds. They could not refuse the offer, but receiving their Gold, packed up, and got them gone beyond *Ister*, not only enriched with this sum, but with infinite other Treasure and Plunder, and an hundred and twenty thousand Captives ; poor *Illyricum*, though frequently subject to such calamities, yet never having suffered to such a degree. And this added something to their grief, that all things being burnt up and wasted, so dreadful a Snow fell this Year, as lay on the ground for six Months, and thereby perished not only great quantities of Cattel, but multitudes of Men, Women and Children, who wanted the accommodations of Habitation and Fuel, of which the savage *Huns* had deprived them. This was counted no less than a Prodigy ; and so was also that Earthquake which happened in *Italy*, where many Buildings in *Rome* were thrown to the ground. The more prodigious they were, they suited the more with, and portended that great and prodigious Tempest, which ceasing for some little time, (the Cloud retreating a little Northward) poured itself shortly after both into the Western and Eastern Provinces, like an Hurricane, so as scarcely any thing, of what Bulk or Materials soever, could stand before it. At Land scarcely any thing ; the Water afforded the best security.

2. However weak the *Prætentura* were to make any resistance of *Attila* and his Multitudes; yet the Enemy being removed, *Theodosius* would not have the Limits neglected, nor the Duty of the Officers that there lay encamped. But to reinforce it, he wrote to *Nomus* the *Magister Officiorum* his Commands, that the *Duces* of the "said Limits, and especially of those to which were Neighbours such Nations as "were most to be feared, should abide upon the Borders, themselves, to see, under "the inspection of the *Magistri Militum*, that the Soldiers did not straggle, but "keep to their Colours, and were constant in the exercise of their Arms: That they "took care to have the Camp and other Necessaries repaired, and kept in good or- "der. And to the *Principes*, the *Præpositi* of the Camp, and to them, he assigns "the twelfth part of the *Annona* belonging to the Limitaneous Soldiers, to be di- "stributed among them, according to the Vicissitude of their Labours, at the "

Lult. de Officio
Militar. Judi-
cum, Cod. Just.
lib. 1. tit. 45.
Dat. 2. Id. Sept.

P p p p

discretion

Sect. 5. discretion of the *Magistri Militum*. He further enjoined, that all Lands upon the Borders, with the Marishes, which, time out of mind, had been in the Occupation and Tillage of the Limitaneous Soldiers, and free and discharged of all Burthens, should be held and possessed by them to all intents, and without any charge. If now in the hands of any others, they should be surrendered, all manner of prescription ceasing in this case, and restored to the Soldiers aforesaid without any burthen of Collation, under pain of Proscription to be inflicted on any that should oppose this his Ordination. Provided that, if any had bought such Lands (which he should not have dared to do) he might have competent Action against the Seller. These are two distinct Laws, as now they are distinguished under several Titles in the Code of *Fustinian*, but they made up one and the same Constitution; and so are still found among the Novels of *Theodosius*. He was now in the good humour of restoring to every man, and to every City also, its own; which he had been petitioned to do in his Progress. For, great complaints were made in some places, that their publick Grounds and Houses were detained in private hands: all which, except alienated by the Interposition of his Procurator, or *Comes Rei Privatae*, or consent of the Cities themselves, he commanded now to be restored, if possessed within the space of thirty Years. And the further disposition of the Affair is left to the management of *Apollonius*, the *Præfectus Prætorio*, to whom he directs this Edict; and to his *Magister Officiorum*.

Valentinian also provides for a Storm.

Pities the distressed Africans.

3. In the West all things were in repose this year, except it was the mind of *Maximus* the *Consul*. We may know the Emperor was free from War, when he employed his time and his *Quæstor* about matters concerning Dignity and Precedence. *Gratian* had formerly ordained by a Law, that If the *Consulship* and *Patritiate* met in one person, he should precede another who was graced only with one of these Honours. But now it became a dispute, we may guess, at the instance of *Maximus* concerned; whether, in case one had been twice *Consul*, he should not take place of one who had been once advanced to that Dignity, although that of *Patritian* had been added to it. *Valentinian* determined it in the Affirmative by his Rescript directed to *Storacius*, *Præfect* of the City; giving this reason, that That Dignity which seemed to confer a certain lustre, even upon the Emperor's Name, being conferred the second time on private persons, though without the other (of *Patritian*) ought justly to excell all other Honours. But, though he was not now busied in War, he was not unmindful, in a fair day, to provide for a Storm; and gave order to *Quadratianus*, the *Præfectus Prætorio*, to see executed to the full an Edict he had made for raising of Soldiers in the *Suburbicarian* Provinces; Requiring him to call Senators and all Possessors of Lands before him, to cause their Stewards and Tenants to produce the number that was imposed, under pain of forfeiting ten pounds of Gold, besides the finding of the Men. He affirms, that such severity ought to prosecute to a mind averse to a desire of common defence and security. And concludes, that, whosoever shall be backward in this matter, in a sort, confesseth himself not to be a *Roman*.

4. He had forgot himself to be an Emperor, as, in a manner, he confesseth, had he not had some compassion on the miserable and afflicted condition of the *Africans*; who, both *Ecclesiasticks* and *Lay*, were, in the late Revolution, turned out of all they had, and forced to seek their Bread in strange Countries. He gave order to *Albinus*, the *Præfectus Prætorio*, that, Such of them as were Scholars, and had destinated themselves to the pleading of Causes, should be received as *Advocates* in the Courts under his Jurisdiction, to give some relief to the miseries they sustained; it being altogether reasonable, that such should be favoured and assisted as had nothing left but what Captivity could not take from them. This might be a means to relieve some of them, and we are in charity to believe that others were found out to preserve the illiterate sort from perishing. But, some time after, the Emperor found himself concerned to take another course, not so much for the relief of these poor *Africans*, as, that if they got any thing to maintain Life, it might not be taken from them e'er it could reach their mouths. Many of them were found much indebted, and their Creditors were so cruel as to come upon them in this their greatest extremity; and take violent courses, both with them, and those that were bound for them, though involved in the same calamity. In another Writing, directed to the same *Albinus*, he insists much upon the Cruelty of this practice; that those who should starve, if not fed by other hands, who lived on Alms, and what they received from Charity, should be constrained to pay that which had been taken from them by violence, and they had not in their

power

A. D.
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L. ult. de Fu
Limitrophis
C. c. Cod. Ju
lib. 1. l. 1. tit. 5

Novel. 31. l.
p. id. Id. Sep

Novel. Thro.

Novel. 45. l.
lentiniani
Theodosiani
Dat. 3. l. 1. d.
Rom. 1. p. p.
to Trajani.

Novel. 41. l.
Valentinian
inter Theo
nas, Dat. 8
Jun. Rav.

Novel. 47. l.
lentiniani
Theodosiani
Dat. 13. Cal
Septemb.

Novel. 22.
lentiniani
Theodosiani
Dat. 14. Cal
Nov.

ject. 5. power to restore. He urgeth, that Compassion is wont to be had on all Debtors " that have any misfortune befallen them ; and therefore, it is much more due to " them that have suffered a Deluge of their Fortunes. Therefore he resolves, out " of the principles of Clemency, that none shall sue any *Africans*, or their Sureties, " upon any Bonds, till they have recovered their own again. Always excepted " those who have not lost all, but have Estates in other Countries. Neither shall " they be sued or molested for any thing done within their own Province, where no " Law now was open, till their Return and Restitution. Nor shall any Interest or " Use-mony be demanded for such Debts by any Creditor, who may well be con- " tented, if ever, in so great a calamity, he arrive at his Principal. "

A. D.

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5. *Theodosius*, for the Year C.C.C.C.XLIII, took the Consular Ornaments the eighteenth time ; and had *Albinus* for his Western Colleague. This Year the Empire was also in repose, for any thing we can learn ; though *Marcellinus* writes, that, at the same time it was invaded by the *Huns*, it was also infested by the *Persians*, *Saracens*, *Zanni*, and *Isauri*. But the Empire was at Peace because the *Huns* themselves were in disturbance ; for the fierce and cruel humour of *Attila* could not be at rest ; but while, by virtue of the late Agreement, he was kept up in his own Country, being impatient of any Equal, he murdered his Brother *Bleda*, and constrained all the people of those Tracts to submit unto himself. Now grew he more arrogant than ever ; and suffered himself to be transported to such ferity, even in his Imagination, that he both thought and affirmed himself born for a Scourge of Mankind and Devastation of Nations. And to this fancy he composed his gesture and his way of walking, which his very stature and proportion of his Body seemed also to agree with and exhibit. He was low made, had a broad Breast, a great Head, little Eyes, a thin Beard, a flat Nose, and a Skin so tawny, that it gave sufficient Testimony of his Original. And now being sole Monarch of the *Huns*, he little doubted but to be so shortly of the World ; and indeed, he wanted neither courage, assistance of Men, nor perfidiousness to break his Word, and the Peace made with *Theodosius* when there should be occasion : being a Pagan, or indeed of no Religion. To one so disposed, occasion and opportunity could not long be wanting, as we shall see.

A. D.

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Theodosius A.
18. & Albi-
nus, C. J.murders
Brother
la.

6. In the mean time we cannot but take notice how kind *Theodosius* was at the beginning of this Year, to such Lawyers as were Assessors or Councillors to the chiefest Magistrates ; as, the *Præfetti Prætorio*, and of the City, the *Magistri Militum*, and *Magister Officiorum* : declaring, that His kindness ought to extend to them as well as to the Judges. He tells *Zoilus*, the *Præfekt* of the East, that whether at present they have executed that Function, or shall execute it, both then, and when discharged, they shall enjoy Immunity from all burthens imposed, either by Civil or Military Officers ; nay, not receive any Impositions from the Seat of the *Præfekt* himself, under pain of fifty pounds of Gold to be forfeited by his Office, if it should yield to any thing contrary to this Statute. The like indulgence he extends to the *Magistri* of his *Scrinia*, whom he owns, as in a sense, *Assessors* to his Majesty ; as also, to the *Proximi* and *Exproximi* of the said *Scrinia* ; and that under the like penalty, to the Office of *Zoilus* : so that these two Laws, directed to one and the same person, made up but one Constitution. Nay, to all the *Scriniarii*, as also, the *Exceptors* belonging to *Zoilus* as *Præfekt*, he declared also, should belong the Right of the *Castrense Peculium*, and to the rest that did *mereri*, or serve in his Office, in as ample manner as if they had served the Commonwealth in the first *Legion Adjutrix* ; for there were two Legions that went under the name of *Adjutrix*, viz. the first and second, from helping or assisting the Prince in any Emergency. In conclusion, as if he intended to pass nothing but Acts of Grace, out of Contentment he received at the Peace of the Empire, or some other thing ; at the end of the year he granted an Indulgence to several sorts of Lands, which of late years had been burthened by extraordinary Impositions, so as never to be liable to them again.

L. 11. de Ad. G.
foribus, C. Cod.
J. lib. 1. tit.
51. De. 5. Cal.
Mari.ofus pas-
sioner Acts
dulgence.L. 11. de Magi-
stris Sanctorum
Scriniarii Cod.
J. lib. 1. tit.
9. De. 5. Cal.
Mari.L. 11. de Ca-
strensi pecunia,
C. Cod. J. lib.
12. tit. 27.
* Qui in Offi-
cio calumnia
moveri & enti-
am habere nos-
cantur.Novel. 33. Va-
lentiniani inter
Theodosianas.
Dat. 3. Jul. Dec.
Novel. 42. Va-
lentiniani inter
Theodosianas.
8. 2. Dat. prid.
14 Jul.

7. In the West *Valentinian* was quite of another opinion, being by *Hesiodorus*, his Minister, put in mind to provide for the necessities of divers things, and the publick Utility, as he words it. By the Authority of his Pragmatick Sanction, he thought fit to confirm that Suggestion he had made, so as, for the necessity of imminent Expences, for which the Treasury was not sufficient, all those they called *Illustrious Vacantes* (of whom lately) should find money for setting forth three Soldiers ; as also, the *Consistorian Comites*, or those of the first Rank ; as also, *Tribunes* and *Notaries*, and such as in the Provinces exercised ordinary Jurisdiction, "

Sect. 5. one apiece ; *Tribunes Vacant*, whether *Comites* of the second or third Rank, and “*all Clarissimi* contribute a third part ; so as every *Tiro* should be rated at thirty *Solidi*, the *Africans* excepted, who were lately driven, by an Hostile necessity, from “*their native Soil*. Moreover, in consideration of their present Labours and “*Watches*, twenty *Consistorians*, thirty *Comites*, and the *Notaries* to be excused. “*In August* several Illustrious persons were sent for, from *Rome*, to Court, to consult about the publick Affairs ; to whom the Senate gave in charge, to acquaint the Emperor with a great Irregularity it had observed ; and to pray his Redress. It was grown to a great custom for Widdows, after the death of their Husbands, to sue their Sons and Heirs for such Profits as had been spent in common in their life time, for maintenance of the Family. This *Valentinian* takes notice of, as he words it, acceptfully to acknowledge how much the most ample Senate was mindful of his Authority ; the Counsel whereof always opposeth unfitting things. And, attributing much to the expensiveness of Women, he determines, in the first Edict of all his Novels that are placed by themselves, and directed to *Albinus* ; that, If “*a Man dies and leaves his Wife, she shall not recover of their Sons, or the Heirs of her Husband, any such Profits or Fruits. No more shall an Husband from “the Sons or Heirs of his Wife, if he survive her.*”

Valentinian, on the contrary, exacts his Dues.

A. 44

Novel. i. Valentinian, Id. Sipp.

This Year calamitous to Constantinople.

Theodosius requires all to attend him upon an Expedition.

8. For the Year of our Lord CCCCXLV, *Valentinian Augustus* the sixth time bore the Title of *Consul*, together with *Nomus*. This Year, though remarkable also for Peace, was too much remembered at *Constantinople* for the disasters which befel that City. For, the people fell into a tumult in the Cirque ; and in that mad hurly burly many were killed. A great Famine raged also there ; which was followed by the Pestilence : and the great Church (over and above) was consumed with Fire, as *Marcellinus* hath briefly noted. This made the Town, doubtless, not very agreeable to *Theodosius* ; who would be more at his ease elsewhere, though we know not of any Progress he took, or Expedition he made. But, toward the latter end of *February*, either purposing to make one, or to make sufficient provision for his Journey when he should so do ; to let all persons know what they should hold to, and to prevent excuse, he published his Edict inscribed to *Taurus*, the *Praefectus Pratorio* ; wherein he declared, that, When he undertook any such Expedition, the wonted Attendance and Services of the Provincials where ever he passed, ought to be paid him. Commanding, that none be excused from furnishing out the *Angaria* and *Parangaria*, or Waggon, or from any other Duty ; but all whatsoever, whether belonging to his own House, to that of the Venerable Emperors, to the *Sacrofanct* Churches, or any Illustrious Families, without any excuse to be obtained by any Pragmatick or Writing procured from the Prince, shall be obedient ; and submit to the Indictions of the *Praefect* at the time of such his Expedition. “ By this we understand something of the nature of the Emperors purveyances, and how he was inabled to travel ; and we suppose a ready compliance would have been given to his pleasure herein, though he had not used such Phrases and Titles as swell above the condition of a Mortal ; as, *Numen*, *Divina Domus*, *Divina Adnotatio*, and *Sacrum Oraculum*, applied to himself, according to the custom which still obtained ; especially, when any Laws were made for maintaining the Grandeur and Authority of the Prince.

A. 44
Valentinian, A. 6. C. mo, Coj

L. 2. de muneril Cod. Ju tit. 48. Cal. M.

Valentinian again provides for the ease of the Africans.

9. *Valentinian* this Year having nothing to do with War, spent such time as he allowed to business with his *Quaestor*, about Civil Acts. About the beginning of *April*, *Auxentius*, the *Praefect* of *Rome*, informed him of things in that City which needed Reformation : and procured a Rescript for calling back such as were *Corporati*, or belonged to certain Companies, although they had procured themselves to be received in the number of Clerks, as far as the place of Deacon. “ But about the beginning of *June* came Messengers out of *Africa*, from the *Numidians* and *Mauri Sitifenses*, which was managed by *Palladius*, a *Comes* and *Tribune*, and one *Maximian*, a Man of laudable Qualities, as the Emperor commends him. They offered several things for relief of the distressed Provincials, who had been harassed by that publick Calamity of the *Vandals* ; and received such Answer by way of Edict, directed to *Albinus*, the *Praefectus Pratorio*, as *Valentinian* found himself obliged to make. One was, that In reference to the Tributes, which they were no way able to pay as formerly, they should only pay the eighth part, both for the private Lands, and those they called *Emphyteuticæ* ; so as the Provincials of *Numidia*, for all Accounts put together, should pay four thousand and two hundred *Solidi* only, one thousand and two hundred Military *Annone*, and two hundred *Capita*, for Cattel. Such as held in perpetual Right Lands of the Prince his Domain, “

Novel. inter nas, 26 Cal. M. diacon

Novel. c. lenti-dofian 11. Ca

ect. 5. Domain, should also pay a seventh part. And of other Incomes, as of Salt, Al-
lom, and other things a fifth part, or according to the number of Men, and the
possibility of the matter. All which exaction shall be removed from the *Curiales*,
and be managed by the Officers of the Magistrates. Lest they should be forced to
carry provisions for the Army too, he permits them to exchange them for Money
at easie Rates. “ A. D.
445.

10. To the *Mauri Sitifenses* he confirms all their privileges granted by former
Princes, who shall pay, all Titles put together, five thousand *Solidi*, and fifty “
Capita, for the *Annona* they were wont to find. He commands the *Præfekt*, that “
he suffer no Officers by any pretence to put themselves upon these Provinces, “
besides the *Dux*, *Consularis* and *President*, the ordinary Magistrates; not so much “
as those they called *Curiosi Litorum*. To the City of *Constantina* in like manner “
he confirms their privileges, and takes care for removing their Grievances. “
To such *Advocates* as continue their Abode in *Africk*, shall not be reckoned “
that time that the *Barbarians* raged in the Country, so as to shorten their term “
(which was wont to be limited; till the scarcity of Pleaders procured them to be “
perpetual, or as long as they pleased) and when they have completed their term “
they shall enjoy the Dignity of *Clarissimi*. And because the Courts of the Cities “
and Places Corporate, or the number of the *Curiales* was brought very low, he “
allows for good such Acts as shall be dispatched by three *Decuriones* in the pre- “
sence of a publick *Exceptor*. Forasmuch as the old way of Judicature (by the “
Cognitor Decreti) was ceased, Appeals should be made to the *Præfekt* of the “
City; and because of the distance beyond the Sea, a years time shall be allowed “
them. No Dependants, that they may be able to withstand the Invasions of “
Barbarians, shall absent themselves from the Grounds of their Lords; and such “
as live in Mid-land places shall spend one Month in the year upon the Borders, “
that they may not always be separated from their Families. He charges the “
Dux, that no armed Men be suffered, but such as shall willingly offer themselves “
for repulsing the Enemy, and those to be well looked to and governed, who shall “
enjoy what Booty they get from him, except such Slaves as the Provincials have “
lost. In conclusion, when Judges have completed their term, they shall not de- “
part out of their Province, till three Months be expired, either to receive com- “
mendations for their good Government, or to be answerable for their evil “
Deeds. “

11. This Emperor had been abused too much at this time in pardons surreptiti-
ously obtained in case of Blood. So as he found himself obliged to take order for
stopping such loose Indulgence, and to distinguish betwixt Murder and casual Ho-
micide. The case of a Man's violent death he would have tried in the Province
where the Fact was committed; and if it proved Murder, the Killer to be put “
to death according to the former Laws, notwithstanding a pardon produced un- “
der the Prince his own Hand. None should escape punishment but those in the
Lapses of whom, fortune only could be blamed. And if for the future, any “
pardon should be granted to willful Murderers, the *Magister* of that *Scrinium* “
which gave Answers to Petitions, should fine in five pounds of Gold, and a *Me-* “
moralis of any *Scrinium*, besides the loss of his place be banished for the space “
of five years. “ This is directed to *Maximus* as second time *Præfektus Prætorio* and
Patritian, and concludes with a Prayer, that the Divinity would keep him safe
for many years, the most dear Parent of the *Augusti*. It was dated on the eighth
of *December*, and proposed to publick view in the *Forum* of *Trajan* on the twelfth
day of the same Month, by the *Præfekt* his Edict, according to the custom.

12. The CCCC LVI Year of our Lord was opened with the third Consul-
ship of *Ætius*, and that of *Symmachus*; a Year we shall find too remarkable in di-
verse respects. *Africk*, *Spain* and *Gall* were at this time, as we have seen, seized
and possessed by several Barbarous Nations; and now the time was also come, that
our *Britain* should fall quite off from the *Roman* Empire. The Reader indeed
by that small intelligence he hath had of it might justly have concluded, that it had
been alienated long ago. Well might the Poet sing his *penitus toto*. So little do
we hear concerning it in those times, dark enough in themselves, but dismally dark
as to it, that it might well seem separated, and indeed another world. More than a
wonder it is, that amongst the numerous Laws we have perused, and mentioned
in this Volume, but one single Edict or Rescript, but one bare Constitution is to
be found concerning it, or directed to any Magistrate or Officer resident upon it.
What shall we attribute this to? to what cause shall we assign it? To the great
distance?

provides
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on of
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in falls off
the Em-

Not. 4. Valen-
tinian.

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Atto 3. C.
Symmacho
Coff.

Sect. 5. distance? But some other Provinces were as distant as it from the Emperor's Court, especially when it was in *Gall*, as sometimes it was. Of *Spain*, of *Illyricum*, of *Africk* we hear often in *Theodosius* his Code; but of *Britain* there is a deep silence. Was it because there were no complaints, or nothing that was out of order, that needed the healing hand of the *Quæstor*? Of that also we have reason to doubt. The most probable cause was this, that though the *Romans* had been long in the Island; yet of latter times there was but little Entercourse betwixt them and it, little passing from the Southern to this Northern Climate. The Ocean was thought unpassable. The British Sea was always dreaded as well as the Monsters here thought to be bred in the *Caledonian* Wood. But since that the Barbarous Nations began to rove about in Boats. Since *Scots*, *Picts*, and especially the *Saxons* became such Pirates, that Officers on purpose were appointed to defend the Coasts from their violence and Rapine, *Bologne* and *Dover* did not seem so near as formerly they appeared. Danger of passage put an end to pleasure in crossing the Strait. Nothing but necessity could procure a Voyage. This was the cause why *Britain* grew strange by degrees, and seemed indeed another world before she was turned Barbarous: what sometimes proves her defence (the Ditch about her) then was the Rampart against her Friends, and an Inlet to her Enemies. But, as great effusion of Blood, and expence of spirits render an Animal more capable of Impressions from external violence; so happened it to *Britain* in the exhausting of her strength; which caused her to languish. This how it came to pass we shall now tell in order, and all together; which will more conduce to the understanding of *Roman British* Affairs, than if we had told some Scraps of Stories scatteringly, as by chance we met them.

The reason we have heard so little of her all this while.

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446.

What of moment passed here since the end of *Constantius* his Reign.

Theodosius.

Maximus.

13. Just at the end of *Constantius* his Reign, and at the entrance of *Valentinian* we have seen from *Ammianus Marcellinus* how the fierce Nations of the *Picts*, *Scots*, *Attacots* and *Saxons* broke the Limits, and vexed and harrassed *Britain*; and how the Issue of it was, that *Theodosius* the Elder, Father to *Theodosius* the Great, was sent hither to repress them, which he gallantly performed. For he brought the Island into so good posture, that it had a lawful Governour; and from the Emperor that then reigned, got a name of *Valentia*. So continued it in repose and settlement till that *Maximus* was saluted Emperor here by the *British* Soldiers, and usurped, who is also said strenuously to have repressed and overthrown the *Picts* and *Scots*, who then also made their Depredations. *Gildas* in his Book concerning the destruction of *Britain*, as to this Revolution writes, that a vast Wood of Tyrants, to use his Phrase, sprung up here about these times, and the Island retaining the *Roman* Name indeed (*Romania*) but little of the Manners or Laws sent into *Gall* *Maximus*, attended by many Soldiers, but such as were tumultuous, and over and above adorned with Imperial Ensigns, which he never decently wore, but as Tyrants were wont to compass them. This Man by craft rather than any valour, having brought the Neighbouring Provinces into his Net, and by his perjury and lyes joyned them to his wicked Dominion, stretched one of his Wings as far as *Spain*, and the other into *Italy*, and establishing the Throne of his most wicked Empire at *Triers*, raved with so great madness against his Masters, that of two lawful Emperors, the one at *Rome*, and the other elsewhere, he bereaved of his most religious life. But presently as he proceeded in such cursed and audacious practices at *Aquileia*, he was smitten on the Head (he means slain) who had cast down the honoured Heads of the whole world from their Sovereignty.

By him *Britain* bereaved of her strength.

Is harrassed by the Northern Nations.

14. But, by this means became *Britain* bereaved of her Soldiers, and Military Men; as also of her Governours, (how cruel soever) and in a manner of all her Youth, which following the Tyrant into *Gall*, never more returned, and thereby growing utterly unskillful in matters of War, first was invaded by two Transmarine and cruel Nations, the *Scots* from the West, and the *Picts* from the North, under which she lay stupified, and groaned many years. This first was invaded, cannot be meant of the very first invasion made by these Nations, as we have seen from *Ammianus*, but of the first most signal and violent Impression made by them. And why he should call them *transmarine*, a reason is rendred by *Beda*, not for that they lived out of *Britain*, but because they were remote from part of the *Britains*, by two interjacent *Friiths*, whereof the one from the East, and the other from the West pierceth into the Bowels of *Britain*, though they do not reach so far as to meet. But some conjecture, that *Gildas* did not mean these *Scots* called *Ren-de*, which had already seated themselves in *Albania*; but the *Scots* that inhabited *Ireland*,

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l. 5. Ireland, and therefore came from the *West*, as the *Picts* from the *North* of *Britain*. But *Britain* being thus harrassed with their Inroads, and the direful effects thereof, sent to *Rome* with tears, requiring that succours might be hastened away to her Relief, vowing, in case the Enemy were removed to remain constant in fidelity to the Empire.

15. That *Stilicho* defended the Island from the Barbarous Rovers, we have seen abundantly from *Claudian*, who introduceth her speaking so much in his behalf. And from the same Poet we have also learn'd, how when he was to engage with *Alarich*, amongst other Forces, that *Legion* was reckoned which lay in the *Prætoriana* upon the Borders against the *Scot* and *Pict*, whence he had sent for it as the rest of the Emperor's Troops into *Italy*. Not long after was one *Gratian* made Emperor by the *Britains*, and after four Months killed by the Soldiers. And into his place they took upon them to promote one *Constantine*, as we have discoursed at large, who passing presently after his usurpation into *Gall*, as *Maximus* did in like manner, took over with him the *British* Youth, and what strength had been left in the Island, he utterly removed, and so exposed the exhausted Isle more than ever to the fury of the *Northern* Nations. Now we are told by *Zosimus*, that the *Barbarians* inhabiting beyond the *Rhine*, rebelling against this *Constantine*, then in *Gall*, reduced the Inhabitants of *Britain* to that condition, that they fell off from the *Roman* Empire, and refusing to obey the *Roman* Laws, would live, as they themselves pleased. The *Britains* therefore taking Arms, refused to undergo no hazards for their Country, but freed their Cities from the incursions of the *Barbarians*; *Honorius*, the Emperor himself, by his Letters advising them to stand upon their Guard. But after that *Rome* was taken by *Alarich*, and *Constantine* the Tyrant slain, others write, that the *British* Army was received by *Honorius*, who reduced the Island also to obedience, though some have said, that then the *Romans* were not able to recover it. But if thus it was, we may easily believe what *Blondus* hath written, that when *Constantine* on one side, and *Alarich* on the other, gave such diversion to the *Roman* Arms, the *Britains* being exhausted of their own native strength, and receiving no assistance from the Empire, being continually harrassed, and tired with the Inroads of the *Picts* and *Scots* were forced to treat and make some agreements with them, and to fall off from their obedience to that power which could afford them no protection.

Vide *Usserii*.
Primord. Eccles.
Britann. p. 600.

16. Now it was about the ninth Year after the taking of *Rome* by the *Goths*, that the *Romans*, or they that were of *Roman* Blood, and left behind in the Island, not enduring those Threatnings and Insultations of the Nations, hid their Treasurers in Ditches, as *Fabius Ethelwerd*, our Noble English *Saxon* Historian relates, and got them over into *Gall*, hoping to find them at their return, wherein yet in a great measure, their expectation failed them. If what he writes concerning the Threatnings of Nations, hath Relation to the Nations or People of *Britain*, their quarreling with the *Romans*, this much confirms the Revolt now made by them from the Empire; if the words be not rather to be understood of the Barbarous Nations, the *Picts* and *Scots*. But however, it's without doubt, that they shortly after returned to obedience, as was best for them, except they had been in better capacity to relieve themselves, and now they obtain'd upon promising obedience, another Legion for their defence. For they found no faith or constancy in the Rovers, who under pretence of peace and a League, hoped to get the Island into their power. The *Romans* could not but take notice of their design, and how *Britain* by that means was like utterly to be lost, if they did not presently interpose; and therefore *Albius* being also wearied with the importunity of that party which still remained constant in their fidelity, sent away a Legion out of *Gall*, which reduced the Country into an indifferent quiet, and peaceable condition. We are to understand, that now it was, that *Gildas* saith, that *Britain* vowed, if the Enemy were removed, to remain immoveable in her fidelity to the Empire. A Legion unmindful of the late mischief (the murdering of the Emperor *Gratian* some interpret it) is ordered her, which having passed the Seas, presently engaged the Rovers, and having slaughtered of them a great multitude, quite drove them out of the Country, and thereby freed the Inhabitants from cruel death, or imminent captivity. This performed, it set them upon making a Wall overthwart the Island, which should be for a terror to their Enemies, and a defence to themselves. But being made by the Rabble without any good Adviser, not so much of Stones, as of Turfs and Earth, it stood them in no stead at all.

Multiplikes.
non ferentes
gentium minas.

17. *Beda* writes, that in his days the Remainders and Footsteps of this deep and broad,

Sect. 5. broad, though useless, Rampart, were to be seen. And he saith it began two Miles distance from the Monastery of *Abercurnig* in the *West*, at a place, in the Language of the *Pitts*, called *Pennabel*, in the Tongue of the English *Penneltun*, and ended near the City *Alcluth*. It was drawn betwixt the two *Friiths* of *Dunbritan* and *Edenburgh*; as *Scotch Writers* describe it, from *Kaer Eden*, or *Edenborough*, to *Kerk-Patrick*, on the Bank of the River *Clude*, leaving *Glasgow* on the South, being eighty Miles more Northerly than that made by the *Romans*. But the Legion which set them upon this Work, staid not to see it made, being shortly after recalled, when the *Burgundians* grew turbulent; and then for all the Wall, the *Barbarians* returned, and miserably wasted poor *Britain* with Fire and Sword, till News thereof being brought to *Valentinian* the Third; he dispatched away *Gallio* of *Ravenna* with another Legion. But hear how *Gildas* himself tells the Story in his lamentable and melancholick manner. This Legion being returned with great joy and triumph, the same Rovers like so many cruel and ravenous Wolves return upon their former prey, no Shepherd appearing to protect the Sheep, and beat down and trample on all in their way, like standing Corn. Now again "are Messengers dispatched with their Cloaths rent, and earth upon their Heads, "to crave succour of the *Romans*, like as fearful Chickens betake themselves to the "Wings of the Hen, beseeching them not to suffer their afflicted Country utterly "to perish, nor the *Roman* name, now indeed merely a name, to be lost and ex- "tinguished in the Island. The *Romans* receiving as great an impression from the "Story of this Tragedy as humane nature was capable of, made as much haste to "their Rescue, as an Eagle can do in the Air, an Horseman upon the Earth, or the "most expert Mariner upon the Sea; and like as a mighty Torrent, falling from the "Mountains, removes Heaps of Sand which lie in its passage, so did they sweep "and cleanse the Country of these greedy Rovers.

Another Supply sent, which again disperseth the Rovers.

Instructs the Natives, and bids them farewell.

18. They now tell plainly those, for whose deliverance they came, that they "must not for the future expect any such tedious and laborious Journeys from "them; or that the *Roman* Legions, or such an Army was to be endangered by Sea "and Land, for to drive away a sort of inconsiderable straggling Thieves. They bid "them apply themselves to the study and practice of Arms, that by their own valour "and conduct they may be able to protect their Country, their Wives, their Children, "and (what should be more dear to them) their Lives and Liberty; to stretch "out their Hands not naked and disarmed, to be pinion'd by the Enemy, but furnished with Swords, Spears, and such like Instruments of War, ready to assault, "and make havock of these Nations which could not be more powerful and valiant "than they themselves, except their sloth and idleness caused them to be so. They "shewed them how to make another Wall, not according to the former model, "but along by the Cities which probably had been built for fear of the Enemies, "propounding couragious Exploits to a fearful People, and a Copy to such as were "not willing to write after it. Moreover, upon the *Southern* Shoar, where their "own Ships lay at Anchor, and the Invasions of the wild Beasts were also feared, "they built Watch-Towers at certain distances, and bade them farewell, as never to "return any more to them." *Beda* (who had been a little more venerable, had he been something more *British*) though he slightly passeth over all things relating to that distressed and exhausted Nation, and cannot escape some censure for his partiality betwixt the old Possessors, and the Intruders, a little enlargeth this Text, and tells us, this Wall was made of firm Stone, in the same place where *Severus* had made his Rampire, or *Vallum*. He adds, that it being yet in his days conspicuous, and much talked of, was eight foot broad, and twelve foot high, passing in a direct Line from *East* to *West*, as to which he appeals to the eyes of those that behold it.

Another Wall.

19. And some very Learned Men are of opinion, that this Stone-Wall was raised in the place both where the Turf Wall stood, and that also of *Severus*. Of this belief, was *Buchanan*, who placeth it within the same Boundaries, as that of Turfs, betwixt *Abercorn* and *Kirk Patrick*. Besides the Footsteps of the Walls he instanteth in the Remains of the Towns, and of *Roman* Antiquities discovered in the Bricks, and the Inscriptions of Funeral Monuments without controul. Others of his Nation call the place *Grimesdyke*, according to the name then known to the Inhabitants, but will have the Stone Wall drawn from the Mouth of *Tine* cross the Island, by the Suburbs of *New-Castle*, called *Gateshead* (where *Severus* they say also caused a Wall and a Ditch to be made opposite to *New-Castle*) and upon the River *Eike*, or *Seotswath* for sixty Miles, as far as a place not much distant from *Carlisle*,

life, Westward. But let us see what all this labour, and the good will of the Roman Legion amounted to. It was no sooner gone, but Multitudes of *Picts* and *Scots* again appeared upon the Shoar, and like a Swarm of Caterpillars overspread the face of the earth, differing indeed in manners and customs from each other, but both alike greedy to shed Blood, having their Faces more covered with Hair, than their secret parts with Cloaths; and they confidently seized on the Northern Part of the Island as their own, from the utmost Bounds thereof as far as the Wall. Upon the Wall the *Britains* set a Guard, but such an one as was fitter to eat, than to fight, trembling at the sight of an Enemy, and pining away for the very thought of War. The *Barbarian* had certain Hooks wherewith he would pull down to the ground the unwary and helpless Defendant, who in so great misfortune was in this respect happy, that he lived not to see these dreadful calamities which shortly after befel his Relations. In short, the Guard ere long quitted both the Wall and Towns adjoining; and then followed the usual flights and dispersions of a poor sheepish and miserable people; for to no other than such a preying of Wolves and wild Beasts can this thing be compared, the miserable *Britains* running away, and when easily overtaken, being slaughtered like Sheep, with complaints and reluctance, but no opposition. Those that remained alive, felt in another manner the dreadful effects of this invasion; so severe a Famine following that Havock, which had been made of all things, that no Food could be obtained, but what only could be got by hunting.

20. The miserable Remnant of the *British* Nation, in this desolate condition, having cause to apprehend another invasion, or rather perpetually subject to them, after some time wrote to *Aëtius* (so it ought to be written, as the Reader finds cause to believe, though some Copies have *Aegitius*, and some *Aequitius*) a Roman Officer, after this manner: *To Aëtius thrice Consul the Groans of the Britains.* Then after a few Complaints: *The Barbarians drive us to the Sea, and the Sea drives us back upon the Barbarians. Betwixt these two sorts of death, we have either our Throats cut, or are drowned.* But no succour or relief could be obtained. In the mean time, the Famine was so violent, that many yielded up themselves to the cruel Enemy, purchasing a little Bread with everlasting Slavery: others more valiantly got up to the Mountains, Caves and Woods, whence they made Sallies upon the Robbers; and now first of all betaking themselves to Almighty God, and trusting in him, had for many years success against, and killed many of them, as they ranged abroad for Booty. Now the boldness of the Enemy for a little time ceased, but not the wickedness of the People; it being ever, as it is now (saith our Author) the custom of the Nation to be weak to repel an Enemy (to blunt his Weapons, as he expresseth it) but strong enough to support Civil Wars, and the heavy burthen of their Sins: infirm to execute the effects of peace and truth; but able to practise wickedness and lies. The ravenous *Irish* (*Hiberni*) then return home, to come back again after a short time: The *Picts* thenceforth fixed themselves, and rested in the utmost part of the Island, making some Incurfions and Depredations now and then.

21. Now happened the great turn and alteration of the State of Britain. The *Irish*, whom *Beda* calls the *Scots*, returned home; and the *Picts* remained quiet in the Northern Part of the Island, where we must look for them when we come to speak particularly of them, and of their Kingdom. And from this time of *Aëtius* his third Consulship, we find reason to date the utter revolt of Britain from the Roman Empire. Formerly, it's true, they purposed to establish themselves in a distinct Body, and Authority; but both Parties still came together again; the Authority of the Empire was owned, and Forces were sent to repress the outrageous Attempts of the savage Nations. But now, as it were by consent, they parted. They sent to *Aëtius*; but *Aëtius* did not answer them. So long as either they owning their Dependence desired aid, or the other vindicated here their Right, and endeavoured to protect their Subjects, we owne them as *Related*, and Britain still a *Diocess* of the Empire. But now by the Roman Laws themselves, a separation or *Alienation* was made. The Romans neglecting to send Succors, having given the Inhabitants formerly warning to provide for themselves, and taking leave as never to return, left her as a thing *Derelict* to the occupation of any one. And (if in this matter we may joyn animate with inanimate things, for this our Island may answer to both) Britain now perceiving in what condition she was, quite alienated her self; in her purpose and resolutions took her flight from the Roman interest, *sine animo revertendi*, without purpose of returning. Of this

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she gave evident Testimony, when, the Year after the Consulship of *Ælius*, she compleated that Resolution which in this Year she must have thought of and begun, of chusing a King to govern her; possibly, after his own Lust, and not according to the Dictates of the *Roman* Laws; which was *Vortigern* as he is commonly called.

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A Digression
to consider of
the State of
Britain.

Britain looked
on by the Ro-
mans as ano-
ther World.

And difficult-
ly they kept it

Adrian shares
with the Na-
tives.

Lollius Urbicus
more straitens
them.

Severus did
little against
them.

22. Thus we must part with *Britain* now, as fallen quite off, and no longer a Member of the *Roman* Empire, of which since the days of *Julius Caesar* it had had the Name; and since the days of *Claudius* it had (not all of it we mean) a true Title to be called. At parting, we would gladly take leave in such a manner as may give the Reader further cause to remember her, by a fuller knowledge of her State and Condition, while Imperial. Although she was but a very small pareel of the *Roman* Empire, considered in its Bulk and Grandeur, she was by the *Romans* thought fit to be termed *Another World*, as wholly severed from their Continent; and not only by their Poets, but their graver Writers; and that not for flourish only, but in very good earnest: insomuch, that, upon the apprehension hereof, *A. Plautius* his Soldiers, as *Dio* writes, were very unwilling to follow him out of *Gall*, in his Expedition thither; seriously imagining it to be some Service quite out of the World. And this might make them think it indeed another World, because they knew no Bounds of it, till the Government of *Agricola*, Father in Law to *Tacitus* the Historian, and General of *Domitian*; who, overcoming the *Ordevices*, subduing the Isle of *Anglsey*, overthrowing *Galgacus*, with the *Caledonian*, or most Northern *Britains*, and causing the *Roman* Fleet to coast about it, found *Britain* an Island indeed; and penetrated into that Sea which, by the Natives, had hitherto been esteemed a Secret, and a Shelter. And yet, for all this Conquest and Discovery, such difficult work the *Romans* found it to preserve this now found out plot of Ground, that as before their Colony and *Municipia* had reason to tell them sad stories of the Slaughters they underwent by the Natives: so, after *Domitian*, under *Nerva* and *Trajan*, we hear nothing of our *Britains*, till the time of *Adrian*; who sent to curb and restrain them *Julius Severus*: but he being called away, to quiet the tumults of the *Jews*, they would not be kept in any order, till the Emperor himself was fain to cross over into the Island, in the Perambulation of the Provinces, with which *Florus* the Poet twitted him.

23. And he, notwithstanding all his endeavours, and amending several things he found amiss; yet, perceiving there was so little hope to keep what *Agricola* had acquired, or to make that which the General said to his Soldiers good, that after the Defeat of *Galgacus*, it would be easier to retain them all in Peace and Obedience; that he attempted a thing more glorious to the *Brittish* Nation than to himself. He thought it best to share betwixt what, as *Tacitus* tells us, *Augustus* and *Tiberius* called a prudent Design, and the Ambition of the latter times. They thought it wisdom to neglect piercing further into that which *Julius Caesar* had but discovered; but, in the time of *Domitian*, nothing would serve but the Conquest of the whole Island. He knew the *Roman* Glory was concerned not to quit the whole; and yet he found it would no way suit with the Conveniences of the Empire, to endeavour the retaining of the whole, and therefore took a middle way to part Stakes with the Islanders; and leaving to them the Northern parts, caused a Wall or Rampart to be raised eighty Miles in length, from the Rivers *Tine* and *Eske*, to secure to the *Romans* one share of their Conquests at least. But, whatever *St. Augustine* saith of *Deus Terminus*, his giving way to the will and pleasure of *Adrian*, *Adrian* gave large scope to *Terminus*, drawing back the *Roman* Soldiers about an hundred Miles from the Post where *Agricola* had placed the first *Prætentura*, or a Castle furnished with a Garrison betwixt *Dunbritton* and *Edenborough Friths*, the narrowest neck of Land in all *Brittain*, then called *Glova* and *Bodotria*. *Adrian* being gone out of the Island, the *Brittains* began quickly again to be tumultuous; and, to reduce them to obedience, by *Antoninus Pius*, was sent *Lollius Urbicus*; who indeed did him excellent Service, and drove the Northern People into a narrower strait than they were before, raising another Wall or Rampart of Turfs betwixt the two *Friths* now mentioned. But, when a larger Boundary would not quiet them, it was little probable that they would be content with a narrower Confinement. They again renewed their Hostilities; and, though sometimes they were suppressed, yet continued so long and so far to manifest their uneasiness and reluctance under the Yoke, that this obliged *Severus* himself, with his two Sons, to come into *Britain*. He, for all the terror of his Name and Authority, found so hard a task of it, that, after the loss of fifty thousand Men, he was glad to make a League with the Natives, and by

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ect. 5. by it to oblige them to retire again, but not into so narrow a Compass as *Lollus* would have forced them. But, he drew the Boundary back again, and raised a Wall of Stone on the Foundation of that formerly made by *Adrian* of Earth and Timber, almost the whole way from Sea to Sea. What reason he had hence to be called *Britannicus* we know not; as also, why *Spartianus* should term the building of this Wall the greatest Glory of his Reign. Sure it was a Monument of the restless courage and resolution of the *Britains*. But, so many Walls were here made by the *Romans* to repress their courage and resolution, and this was the last we know of; which also, ordinarily and chiefly goes by the name of the Wall; except we mention one, said to be raised by *Carausius*, who usurped, being employed here in the Reign of *Diocletian*. But this is founded upon the relation of *Geoffrey of Monmouth*, and other such like Testimonies. That *Theodosius* the Elder, and others, endeavoured to make good this Limit we need not doubt.

the Roman
visions of
itself.

24. Yet used the *Romans* other means, and some diverse from those in other Provinces, to keep *Britain* in subjection. That share of it they thought fit to call *Roman* they divided into several parts, for a clearer distinction, and better Government. First into four (not to mention the general Partition into Upper and Lower) as, *Maxima Caesariensis*, *Flavia Caesariensis*, *Britannia Prima* and *Britannia Secunda*. This appears from the Breviary of *Sextus Rufus*, which he dedicated to *Valentinian* the Emperor; of which some imperfect Copies have but three, and leave out *Flavia*; one of which Copies was light on by learned *Cambden*, and caused him to mistake in this Enumeration. This Partition most probably was made by *Constantine* the Great, from whose *Prænomens* was *Flavia* so named, as *Maxima* from the greatness of it. Afterwards, when *Theodosius* the Elder had restored the *Roman* Force of things in *Britain*, and recovered a great part of the Country, lost to Natives, he increased the Division, by adding a fifth Province, with the name of *Valentia*, from his Master. Now, of these, *Britannia Prima* is most rationally thought to have been that part of the Country, lying from the *Gallick* Sea, to the River of *Thames*, and the *Estuary* of the *Severne*. *Britannia Secunda* reached from the *Severne*, to the *Irish* Sea. *Flavia Caesariensis* lay betwixt the Rivers *Thames*, *Severne* and *Humber*. *Maxima Caesariensis*, betwixt *Humber* and *Adrian* his Wall. And *Valentia*, having been formerly part of *Maxima*, betwixt the Walls of *Adrian* and *Urbicus Lollus*, or that betwixt the Friths. Here, if the reason for this Partition thus limited be required, the Author of it answers, that he had observed the *Romans* ever to call these Provinces the *First* which were nearest to *Rome*. For example; *Germania Prima*, *Belgica Prima*, *Lugdunensis Prima*, *Aquitania Prima*, *Pannonia Prima*; all which were nearer *Rome* than any that had the name of *Second*: which were more elegantly called *Inferior*, as the *First* were termed the *Superior*. And; whereas in the declining of the Empire, those Provinces only had *Consulares* which lay next to Enemies, as he observed out of the *Notitia*, not only in *Gall*, but in *Africa*: and in that *Notitia*, both *Maxima Caesariensis* and *Valentia* have such Magistrates assigned them; therefore he rationally thought them to be those which lay next to the Walls, and, at last, were most subject to the Attempts of *Picts* and *Scots*.

Cambden.

25. But there is another Argument for his threefold Division of *Britain*, as he found it in some corrupt copy of *Sextus Rufus*, wherein the *Flavia Caesariensis* is left out. He found that it had been observed (and that truly) how the Polity of the Church imitated that of the State, and Arch-Bishops were founded in those Cities where the *Roman* Presidents were wont to reside. Now, we read how *Britain* had of old three Arch-Bishops, viz. *London*, *York* and *Caer Leon* upon *Uke* in *Monmouthshire*. Therefore he concludes, that the Province belonging to *London*, since translated to *Canterbury*, was the *Britannia Prima*: *Wales* was the *Britannia Secunda*: and that belonging to *York*, and what extends as far as the Wall, to have been the *Maxima Caesariensis*. But if he concludes that the Province lying next, or belonging to the chief City, had the name of the first, because it appertained to that which being chief, or the Metropolis of *Britain*, had the first Arch-Bishop seated in it; there is another that will connect with *London* for that Title in the *Roman* times. For, although *London* hath been, at this day, for very many Ages, the chief City in *Britain*, and above thirteen hundred Years ago was accounted an old Town, and stiled *Augusta* in the days of *Amianus Marcellinus*; nay, recommended long before that, as of great Fame and Renown, even in the time of *Tacitus*, for the concourse of Merchants, and provision of all things necessary. Yet *Beetorius* assigns *York* as the more ancient, or truer Metropolis of the *Britannies*.

*Pitbanon, lib 1.
c 3.*

Sect. 5. Not so much for that it was a *Roman Colony*, which *London*, it's concluded, was not; but also, because the Emperor's Palace and *Prætorium* were there. There is mentioned also the Temple of *Bellona*: and the Historian calls it *Civitas*, by way of Excellence or Preheminency. I add the Temple of *Bellona*, as that indeed which gave the chiefest occasion to its being the *Metropolis*. For, when the more Southern parts of the Island were subdued, and the Northern remained refractory, and perpetually administered some Incentive for War, *York* was the place where the Governors chose to make their abode; as nearest, and at hand, to oppose the Northern Nations. Therefore (we suppose) *Severus* found a Palace, a *Prætorium* and a Temple, and did not make them: and, as he, so his Successors, when in this Island, there made their usual Residence: and, as he, so *Constantine* there died. There was the Court of the Prince, the Court of Justice, and thither the *Dernier* resort lay; that of Merchants being left to *London*. That *Eborac*, Bishop of *York*, in the Council of *Arles*, under *Constantine* the Great, subscribed before *Resistutus* of *London*, it will be more convenient in another place to show.

The Govern-
ment.

25. But such was the Partition of *Britain*, and the Government was suited to it; to be sure, after the Model of *Constantine*. Indeed, what it might be called before that time, as to Terms or Titles of the Governors, is not so easy to determine, it being a controversy betwixt two famously learned Men; our *Camden*, and *Pancirolos*. The former affirms, that *Britain* was a Province neither *Consular* nor *Proconsular*, but *Præsidial*, as belonging to *Augustus* (after that Division we related to have been made by him of Provinces betwixt himself and the Senate) and had its own *Proprators*. But the latter instanceth in several that governed as *Consulares*, viz. *A. Plantius*, and *Petillius Cerialis*, both mentioned indeed by *Tacitus*, in the life of *Agricola*, by the Title of *Consulares*. But afterwards he confesseth it ruled by *Præsidents*; particularly, by *Virius Lupus*, under *Alexander*. Now, that is commonly known that *Augustus*, as *Dion Cassius* relates, did, in the Division, keep to himself such Provinces as were most exposed to the Enemy; under pretence to rid the Senate of trouble, but with design to weaken it, and strengthen himself, by the Conjunction of the Legions. The Historian reckons up those very Provinces, but amongst them *Britain* is not to be found; and it may be answered, that the reason is, because *Britain* was by *Augustus* derelict, who thought it policy not to meddle with it: but it came in afterwards; and *Dio* witnesseth, that such as afterward fell in, fell in also to the Lot of *Cæsar*. But withal, the same Author writes, that there was in succeeding times, some Alteration made from this Rule; especially, out of *Italy*: and *Tacitus* his Testimony seems uncontrollable, when he speaks of what was practised in his own time, and under his own observation. To be sure, he at large declares, that many, as *Legati* and *Prætores*, were sent into the Island, after the time of *Claudius*.

Consulari-
primus A.1
tius præp
p.662. cum
tis Lippi.
Brevi deinde
Britannia
sularem Po
nm Cerialis
cepit, p.658
Lib. 53.

A Vicar.

Subordinate
Magistrates.

Civil.

Military.

Comes of Bri-
tain.

26. Under the Model of *Constantine*, and after his Division of the Country, it is clear enough what both Title and Authority the Governors had. Being one of the *Diocesses* belonging to the District of the *Præfectus Prætorio* of *Gall*, it had a *Vicar* of its own; to whom the *Notus* of the Empire assigns the Ensigns of his Place, and the Magistrates and Officers subject to his Command. His Ensigns were a Book of Mandates shut, covered with Green, and marked on the Back, together with five Castles representing so many Provinces, with their several names inscribed. The Magistrates under his Command were two *Consulares* of *Maxima Casariensis* and *Valentia*; and three *Præsidents* of *Britannia Prima*, *Britannia Secunda*, and *Flavia Casariensis*. For his *Officiis*, he had his *Præmors* out of the Schole of the *Agentes in Rebus*, from the *Ducenarii*; a *Cornicularius*, two *Numerarii*, *Comentariensis*, *Abactis*, *Cura Epistolarum*, *Adiutor*, *Subadjutor*, *Exceptores*, *Singulares*, and the rest of the *Officiales*. By the *Vicar*, and these five Magistrates under him, was the Civil Government administered in such manner as our Policy of the Empire declares. The Military was executed by three great Officers under the *Magistri Militum* of the West, viz. the *Comes Britanniarum*, the *Comes Litoris Illyrici*, and the *Dux Britanniarum*; the several Charges of whom, and the Tracts subject to their Jurisdctions, may be discerned by the names of those Towns where their under Officers and Forces are said to have had their Quarters. The *Comes of Britain* is concluded to have had his Command toward the Inward and Middle part of the Island; and this is because the other two are known to have had theirs upon the Maritime and Northern Coasts. For, the *Notus* assigns not to him any Forces, nor mentions any place subject to his Command (though we know of several Legions that lay in the inward parts of *Britain*), as *Pancirolos* thinks, at the writing of it, al-

Notitia Imp
cident. Sub
positione vi
spectabilis
carii Brita
arum.

most

5. most the whole Island was over-run by *Barbarians*. Indeed, it was in very ill plight; and, had he had his Forces here in Garrison, there would have been no such need for the Natives to send so often as they did, about that very time, to *Rome* for succour. But he and his Army were, in truth, driven away; and also, we fear, his *Officium*, though these several Members of it be registred in that Survey: as the *Princeps* from the Office of the *Magister Militum Prasentalis* every other Year, *Commentariensis*, two *Numerarii*, *Adjutor*, *Subadjuv*, *Exceptores*, *Singulares*, and the rest of the *Officiales*.

27. But, if *Pancirolus* his reason be valid, why should we not find the condition of the two other great Officers the same? Can we imagine that had the *Comes Limitis Saxonis per Britanniam*, or especially, the *Dux Britanniarum*, had such numerous Troops about them as the *Notitia* Musters, there would have been such outcries made, and tears spent for the obtaining of one Legion? The former hath no fewer than eight *Prapostis* mentioned under his Command, and one *Tribune*. Of these, the *Prapostus* of the *Numerus*, or Cohort of the *Fortenses*, lived at *Othona*, thought to be *Malsings* in *Suffex*: the *Prapostus* of the *Tungricani* (or those that were raised about *Tongres*, in *Brabant*) at *Dubris*, or *Dover*: the *Prapostus* of the *Numerus* of the *Turmacenses* (or those about *Tournay*) at *Lemanis*, or *Lime*, very anciently another Port Town in *Kent*: the *Prapostus* of the *Numerus* *Branodunensis*, of the *Dalmatian* Horse-men at *Branodunum*, or *Brancafter*, in *Norfolk*: the *Prapostus* of the *Numerus* *Gariannonensis*, of the Horsemen called *Equites Stablesiani*; who quartered at *Gariannonum*, or *Castor*, near *Tarmonth*, in the same County. Then follows the *Tribune* of the first Cohort of the *Vetasi* (possibly for *Vetarasi*, Inhabitants of *Vetarasia*, a City of *Gallia Belgica*; or *Vetasi*, a People of the *Alpes* in *Italy*) who had their abode at *Regulbium*, or *Reculver*, in *Kent*. The former *Prapostis*, *Pancirolus* thinks Commanders of *Auxilia*, and Horse; and this *Tribune* as Officer also of a Cohort, to be set amongst the Legionary *Prapostis*, below them. For, now follow three *Prapostis* of Legions; The former of whom is he that commanded the second Legion, *Augusta*, which kept Guard at *Rutupis*, or *Richborough*. The next is the *Prapostus* of the *Numerus* of the *Abulci*, who had his Quarter at *Anderida*, possibly, *Newenden*. And the last, the *Prapostus* of the *Numerus* of the *Exploratores* (so called, because their duty was to make discovery of the State and Motions of the Enemy) who had their Station at *Portus Adurni*, or *Ederington*, in *Suffex*. For his *Officium*, he had it thus furnished: The *Princeps* of it was out of the Office of the *Magister Peditum Prasentalis*. Then he had two *Numerarii*, and a *Commentariensis*, both out of the aforesaid Office; *Cornicularius*, *Adjutor*, *Subadjuv*, *Regerendarius*, *Exceptores*, *Singulares*, and the rest of the *Officiales*. This *Comes* had, as others of his Rank, for the Ensigns of his place, a purple Book, with the like Notes; together with his *Codicils*, and the Images of these nine places where the *Prapostis* and the *Tribune* lay in Quarters.

28. In the last place comes the *Dux Britanniarum*, with the Muster-Roll of such an Army, as half of it would have affrighted the *Picts* and *Scots* in their greatest resolution, and caused them to betake themselves to their Heels again. For, under his disposition, as the term of the *Notitia* is, is first placed the *Praefect* of the sixth Legion; in the next place, the *Praefect* of the *Dalmatian* Horse, having his Quarters at *Prasidium*, or *Patrington*, in *Holderness*, near the Sea: the *Praefect* of the *Crispian* Horse at *Danum*, or *Duncaffer*; the *Praefect* of the *Catafractarian* Horse at *Morbium*, possibly *Morsby*, in *Cumbria*: the *Praefect* of the *Numerus* of the *Bararii Tigrionenses* at *Arbeia*, or *Ferby*, in the same Shire: the *Praefect* of that of the *Nervii Didenis* (*Nervii* were a People of *Belgia Secunda*) at *Dittis*, or *Diganwy*, in *Carmarthenshire*: the *Praefect* of the *Numerus* of the *Vigiles* (or Scouts) at *Concangii*, possibly, in *Kendal*, in *Westmerland*: the *Praefect* of the *Numerus* of the *Exploratores* at *Lavatus*, near *Bomes*, in *Shropshire*, in *Richmondshire*: the *Praefect* of the *Numerus* of the *Directi* at *Portra*, or *Burgh upon Stanemore*, in *Westmerland*: the *Praefect* of the *Numerus* of the *Defensores*, at *Bratoniocum*, or *Bouham*, on the edge of *Westmerland*: the *Praefect* of that of the *Solenses* (from *Solis*, a Town of *Cilicia*) at *Maglona*, thought by *Gauden* to be *Machleneth*, in *Montgomeryshire*; where they lay to restrain those that lived on the Mountains: the *Praefect* of the *Numerus* of the *Pacenses*, who lay at *Mugi*, *Malseneth*, or old *Radnor*: the *Praefect* of the *Longonici*, at *Longonum*, or *Langbasset*, in the Bishoprick of *Durham*: and lastly, the *Praefect* of the *Numerus* *Derventianensis*, so called from *Derventio*, where it lay quartered; a Town upon the River *Derwent*, seven Miles from *York*; thought to be *Aldby*. All these *Prapostis*, fourteen in number, have expressed in the *Notitia* the

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Notitia Imp. Occid.
Sub Dispositione
viri spectabilis
Comitis Litoris
Saxonici per
Britanniam.

signs
Auth.

28. Bri-
m.

Sect. 5. the places where they quartered, except the first, of whom thus much is only found, *Præfektus Legionis Sextæ*, without any other addition. And whereas this *Dux* hath for his Arms or Ensigns, as other *Duces*, a Book inscribed, with a purple Cover; to it are added the Images of fourteen Munitions, thirteen of which have the same names upon them we have mentioned, as Quarters of the *Præfektus*: only the first over it hath *Sextæ* relating, I suppose, to the Legion. Now what this *Sextæ* should mean but *Tork* it self, I cannot apprehend, where the *Sextæ Legio Victrix* lay for some Ages, from the time of *Severus*; and in *Antonine's* Itinerary to the wonted name is thus added, *Eboracum, Legio VI, Victrix*; and in a Coin of *Severus* hath been also found *Col. Eboracum, Leg. VI. Victrix*.

The Forces of
the Limit.

29. These *Numeri*, when put together, made a considerable Force; but yet besides them, a strong Watch was kept upon the *Vallum*, or Wall, being the Limit of the Empire in this Country, all along, or through the Line of it, as the *Notitia* expresseth it. For here lay the Tribune of the Fourth Cohort of the *Lergi*, at a place called *Segodunum*, now *Seaton*, upon the Sea Coast of *Northumberland*. The Tribune of the Cohort of the *Comoni*, who had his Station at *Pons Ælii*, now called *Pontland* in *Northumberland*, the Bridge whereof was probably made by order of *Ælius Adrianus* the Emperor. Next to him we find the Tribune of the *Ala*, or Wing of the *Astores* (from *Asta*, a Colony and City of the *Ligures*, if *Pancirolus* be to be believed) at *Condercum*, or *Chester* upon the Street, by the Saxons called *Concester*, though a few Miles distant from the *Vallum* in the Bishoprick of *Durham*. After him the Tribune of the first Cohort of the *Frixagi*, who quartered at *Vindobala*, as the *Notitia* calls it; in the Itinerary, *Vindomora*, or the end of the Wall. For this was signified in the Provincial Language of the *Britains*, at that time by *Vindomora* (*Finis Muri*) as also by *Vindobala* (*Finis Valli*) beyond it no *Vestigia* of the *Ductus* or Tract thereof appearing ever to have been there; the River *Tine* (it is to be thought) serving for a Rampire to keep off the Enemy: And in conformity with all this, the place still hath the name of *Walls-end* in *Northumberland*. The next in order is the *Præfekt* of the *Ala Saviniana* at *Flunnum*, which *Cambden* conjectures to have been no other than that place upon the Wall in the same County at this day, called *Sevensbale* from *Saviniana*. After him the *Præfekt* of the second *Ala* of the *Astori*, lay at *Cilurnum*, which we take for *Cillerford*, or at least *Scilicester* on the Wall in the same Shire. Then follows the Tribune of the first Cohort of the *Batauri*, who had his Abode at *Procolitia*, possibly that called *Colecester* upon the *Tine* still in that County.

30. But the Tribune of the first Cohort of *Tungri* kept his mural Watch at *Borcovicus*, still at this day called *Borwick* in *Northumberland*. The Tribune of the fourth Cohort of the *Galli* at *Vindolana*, now *Winchester*, on the Wall, near to *Walton*, by *Beda*, called *ad Murum*, and a Royal Village, in which *Segbert*, King of the *East-Saxons*, was baptised by *Paulinus*. The Tribune of the first Cohort of the *Astori* lay at *Æsica*, thought now to be *Netherby* upon *Esk* in *Cumberland*. The Tribune of the second Cohort of the *Dalmata* at *Magni*, probably some other place upon the Wall, and not *Radnor*, called also by the same name. As for the *Dalmata*, *Pancirolus* takes notice, that they were in these Days the very strength of the Roman Empire; but that *Alarich*, in a manner destroyed them, as *Zosimus* shews; so that of the Foot, this Cohort afterward enlarged did only remain; but of Horse several survived. The Tribune of the first Cohort *Ælia* of the *Daci* (which shews them to have been here placed by *Adrian*, as the same Author will have it) at *Amboglanna* possibly some Munition upon *Camb-beck*, a Rivolet upon the Wall. The *Præfekt* of the *Ala Petriana*, so called from *Petriana*, at old *Perith* in *Cumberland*. The *Præfekt* of the *Numerus* of the *Mauri Aureliani* brought in, it may be, by *Aurelian*, at *Aballaba*, now contractedly known by the name of *Appelby* in *Westmorland*. The Tribune of the second Cohort of the *Lergi* at *Congavata*, near *Candebeck* and *Rose Castle* in *Cumberland*. The Tribune of the Cohort of the *Spaniards*, at *Axelodunum*, now probably *Hexham*, a famous Town in *Northumberland*, for being once the Seat of a Bishop. The Tribune of the second Cohort of *Thracians* at *Gabrosentum*, not three Miles off from *Vindobala*, now *Gateshead* over against *New-Castle*, of which it seemeth a Suburb. The Tribune of the first Cohort, called *Ælia Classica*, at *Tannocellum*, in probability seated where since stood *Tinnoush Castle*, at the Mouth of the River *Tine*, the Promontory of which the very Roman Name it self doth signifie.

31. This Cohort, Learned *Cambden* thinks, from its addition of *Classica*, to have attended herein Naval Affairs, the Romans having their *Laforia* in Rivers, both for prevention,

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It: m. v. valli.

Gatter 1
nice cap
Hen cap
Tannocell
promont:
Tunna
sonat.

sect. 5.

prevention, and making of Incursions, We have seen indeed largely, that the Empire had such Fleets upon Rivers; but whether on *Tine*, we cannot say; neither seems there to have been such need of them, the Wall having come near to the Mouth of that River, nay, up close to it, as some will have it, who contend, that the place was called *Pen Bal-Crag*, viz. *the Head of a Wall in a Rock*. And yet there is a Law extant in the Pandects, wherein mention is made by *Favolenus* of one *Seius Sturninus*, who was *Archigubernus* of the *British Fleet*: and *Nero*, from a *Classis*, or Fleet, gave the name of *Classica* to a Legion. He that next follows, is the Tribune of the first Cohort of the *Morini*, and he attended his Charge at *Glannobanta*, thought to be by *Camden*, *Bambridge* in *Wentfdale*, where, of late years, was digged up an Image of *Commodus*, accoutred after the *Herculean* fashion, which he affected. But afterward he changed his opinion, and placed it by the River *Wentbeck* in *Cumberland*. The Tribune of the third Cohort of the *Nervii*, lay at *Aliome*, or the place now called *Whitley Castle* in *Westmorland*. After him the *Notitia* mentions a *Cuneus* of the *Armatura*, and placeth it at *Bremetunacum*, some station *per lineam valli*, and not near *Preston* in *Lancashire*, sixty Miles distant from the Wall, as *Camden*, in the *Prooedosis* of his Work would have it. Then follows the *Præfect* of the first *Ala Herculeæ*, the Seat of which was at *Olenacum*, possibly *Elenborough* in *Cumberland*, where remain many Monuments of Antiquity. And in the last place comes the Tribune of the sixth Cohort of the *Nervii*, to whom the *Notitia* assigns a Post at *Verosidum* thought to be *Werewick* upon *Eden*, near *Carlisle*. These were the Officers and Forces lying for the defence of the Limit to secure the Wall, under the Command of the *Dux Britanniarum*, who also had an *Officium* belonging to him, as others of his Rank, for dispatch of business. This consisted of a *Princeps*, taken yearly out of the Offices of the *Magistri Militum Prasentales*; two *Commentarienses*, *Numerarii* yearly out of both the Offices; an *Adjutor*, *Subadjuva*, *Regerendarius*, *Exceptores*, *Singulares*, and the rest of the *Officials*.

- 32. If *Pancirolus* reckons right, *Britain* must have maintained at this time, of the *Notitia*, about nineteen thousand and two hundred Foot, and seventeen hundred Horse: yet it sets none down, as belonging to the Jurisdiction of the *Comes Britannie*, who has only the Image of the Island, and a Book of Mandates for his Ensigns, without those of Castles or Garrisons. That Commentator judgeth, it was because the whole Island was then, in a manner, in the power of the *Barbarians*; but that reason might also have served against setting down the Forces belonging to the other Officers; for when the *Notitia* was composed, the *Britains* sent often to *Rome* for aid, which they needed not, if half, or a quarter of these *Numeri* had lain in Garrison toward the Wall. The first *Vicar* we meet with, and probably the first of all, was *Pacatianus*, to whom we find one *Edict* directed with the Title of *Vicarius Britanniarum*, forbidding, that one *Ducurio* here, should be bound to pay the Tributes that were due from another. But who was the first *Comes* of the *Saxon Shoar*, we know not, and uncertain it is when first he was made; though it must be when the *Saxons* became so terrible for their Piracy. He is stiled by the *Notitia*, *Comes Littoris Saxonici per Britanniam*; and within *Britain* his authority is thought to have been confined, till of late a Learned Man extended it to the Coasts beyond the Seas, lying over against us, as *Cimbria*, *Batavia*, *Belgica* and *Armorica*. To them he finds the name of *Littus Saxonicum* given, because the *Saxons* infested them also, and made great Depredations in them by their sudden Incursions. And he contends, that this *Comes* being designed to restrain their insolence, had power also in those Coasts, as well as upon the Borders of *Kent*; though he had his Denomination from *Britain*, where he ordinarily resided. And yet, by his favour, the *Notitia* mentions no Forces under his Command in any other place, but only in this Island. And it's strange, they should be omitted, and that having a Command of that extent, the Images and Names of only nine *British* Towns or Garrisons should be put into the Ensigns of his Office. As his Employment lay upon the Sea Coasts in the Island; so that of the *Dux Britanniarum* toward the North of *England*, *Danum* or *Dancaster*, at this day a considerable Town, and standing six Miles within *Torkshire*, seeming to have been the most Southern Quarter, taken up by his Soldiers.

33. That *Station* being represented in the Ensigns like a Castle, had set over it *Dano* in the Ablative Case, as the next to it is called *Morbio*, and many others in like manner. For some observe, that from the Age *Solinus* lived in (not long after *Pliny*) and so downward, it was a custom to pronounce the Names of Cities in the

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Ib. S. c. ad Trib.

Tit. Tac. Hist. 1.
S. c. ad Trib.
40.

L. 2. de eva. 5. in
lib. Cod. Tit. lib.
11. tit. 7. de
12. Cal. D. 1. 1.
A. D. CCCXII.

Solin. in Brit.
claus.

Sect. 5.

fixth or Ablative Case ; or Monoptotes. But however, the Romans might give Terminations to, and decline the names of Towns, yet they were generally of British Extraction. They gave names indeed to few places, either in Britain, or other Provinces. But some even here they did, as *Ad Ansam, Aqua Solis, Bovium, Caesaromagus, Calcaria, Castra Exploratorum, Colonia, Ad Pontem, Pontes, Spina, Traiectus, Tripontium, Villa Faustini*, and perhaps others to be seen in the Itinerary, which were given upon some unknown accidents, or occasions. For communication betwixt these places, and for the convenience of Travel, when Armies marched, and the Governors visited the Provinces, the Legions were, when otherwise idle, employed in raising High-ways and Cawseys, called *Vie Militares, Consulares, Pratoria, Publica, Strata*, or by other names ; which course was taken in every Province of the Empire. Now there being mentioned in the Itinerary no fewer than one hundred and fourteen Mansions and Towns, through fifteen Roads, or Journeys ; and in the *Notitia* forty six Garrisons, viz. nine on the Sea Coast, under the Command of the Comes of the Saxon Shoar, fourteen more inland, and three and twenty *per lineam vallis*, all under the charge of the *Dux Britanniarum* ; though some of these be the same with others mentioned in the Itinerary, many Streets or High-ways must have been raised for convenience of passing, according to the Roman custom of Travel. And it is no way probable, that a Province so abounding with Stations, Camps, Fortresses and Cities, should have so few as four Ways of Note in it ; and yet but so many our ordinary Historians do reckon. Had the *Notitia* given us an account of the Forces and Places under the Command of the Comes Britannia, as well as it hath done of those belonging to the other two great Officers, we might have found more Cities in the Island ; of which, Bede, from Gildas, tells us, there were in these Ages twenty and eight most noble ones, besides innumerable Castles furnished and fortified with most firm Walls, with Towers, Gates and Locks.

Cawseys raised.

34. Yet, as we said, the High-ways are commonly made but four in number, the courses whereof are differently reported, and also in some part their very Names. But one of them is called *Watling-street*, said to run out of the South-East to the North-West ; from Dover to Cardigan in Wales, at the Irish Sea. The second is that called the *Fosse*, from the South to the North, from Totness in Cornwall to Lincoln, and so to Cathness the utmost of Scotland. The third is *Erming-street*, out of the West-North West, to the East-South-East, from S. Davids to Southampton. And the fourth is called *Iknel-street*, taking its course by Worcester, and so by York unto Tinnmouth. To endeavour certainty in all these, as one saith, were to conclude unwarrantable conjectures, and abuse both time and the Reader with various opinions, which would amount to nothing. Besides these, there are others mentioned with divers names ; as *Fulia Strata* in Monmouthshire, raised, as Camden thinks, by *Fulius Frontinus*, of whom Tacitus testifies that he subdued, the Nation of the *Silures*, having got the Mastery, both over the Valour of the Enemy, and the difficulties of Places. There was another way called *Strata Marcella*, which *Giraldus Cambrensis* mentions at no very far distance, in his Itinerary of Wales, and others would derive from *Ulpus Marcellus*, who was Proprator here under Commodus, not very long after Frontinus, whose strictness in Military Discipline *Dion Cassius* so much commends. It shall suffice me to say, that if we consider the end and design of raising these High-ways, they were made for convenience of passage, to such Garrisons and Forts as were placed according to the exigency of Affairs, as they might best curb and restrain Domestick or Foreign Enemies, or to Mansions and Places of Abode, where the Civil Magistrates executed Justice, and decided Controversies ; which were so situated, as the People might with best conveniency meet together. The Cawseys therefore being made for the Towns, and not the Towns for the Cawseys (though convenience of Travel, in such as were built more lately, might be an inducement to set them on, or as near to the Road as could be) they must needs take various courses, and cross several ways, nay, often divert, and not through the nearest cut. And if particular Counties were well surveyed, many Branches of the more direct and straight ones would be found. I have in *Lincolnshire* observed something of this kind, and particularly how one there is derived from that High Street which runs by *Stamford*, Northward, which crossing the River near *Gunnorth Ferry*, took its course down by *Deeping*, and so into the very Fenny Parts of that County.

35. Enough of Roman Britain considered within her self, as to her Buildings and Inhabitants, whether Native or Adventitious. But we must remember, that as she received

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Lib. 1. c.

See Brit.
Commen.
Antonin.
Itinerary th.
Britann.See Dot.
Plot's Bc
and Oxfor.

[Sect. 5.] received Strangers in, so she sent out too many of her own Inhabitants; and upon this account her vigour abated, and her wonted strength was exhausted, being deprived of her Youth by the Usurpers lately mentioned. This is to be understood not so much of Strangers lying here in Garrison at those Ports we have mentioned, as of true natural *Britains*, at least born here, though of *Roman* Parents; or of other Nations, which we see were numerous in the Armies. For the *Romans* in furnishing their Garrisons, and defending their Provinces, thought it not wisdom to trust the Natives; but in raising their Forces, still transplanted them, as not to be armed in their own Countries. Therefore, besides those whom the Usurper *Maximus* and *Constantine* took away with them, it evidently appeareth by ancient Inscriptions, and the *Notitia* of the Empire, that these Companies hereafter mentioned served the *Romans* in their Wars here and there, dispersed over the Provinces, which were from time to time supplied out of *Britain*. We read of *Ala Britannica Milliaria*, *Ala quarta Britonum in Ægypto*, *Cohors prima Ælia Britonum*, *Cohors tertia Britonum*, *Cohors septima Britonum*, *Cohors vicesima sexta Britonum in Armenia*, *Britanniciani sub Magistro Peditum*, *Invioti Funiores Britanniciani*, *Excubitores Fun. Britan.* (both of them amongst the Palatine *Auxilia*, or Aids) *Britones cum Magistro Equitum Galliarum*, *Invioti Funiores Britones intra Hispanias*, *Britones Seniores in Illyrico*. No wonder then it is, that *Britain* dayly exhausted with so many and so great Levies of Soldiers lay exposed to the fury of the *Barbarians*; for though Natives are more to be feared, as to Insurrections, yet they more vigorously defend their own Country and Interest than others. And hereby that saying of *Tacitus*, as *Camden* observes, is proved true, that there is no strength in the *Roman* Armies; but what comes by Foreigners. If the Reader think fit, he may see both what Troops were furnished out of the several Provinces, and also to what other parts, in that useful Book the *Notitia*. We have made a long Digression in behalf of *Britain*, though it may justly challenge from us more diligence than other Countries. But so we leave her, till shortly we meet with her again, upon another account, in another dress.

Forces sent
out of Britain.

A. D.
446.

Attila breaks
the peace.

A terrible
Earthquake.

36. We said at the beginning of this Year, that it was too remarkable in divers respects. And this not in the least, that now *Attila* puffed up with pride, and delighting in Blood and Cruelty, could not contain himself, but brake the peace with *Theodosius*, pretending his Tribute was not paid him, and made an Incurſion into the Eastern Provinces, where he cut off at length the *Magister Militum*, which constrained the Emperor to do that by Gold, which his Steel would not effect, and purchased that peace again which was but suddenly to be broken. Agreeable to those Civil Commotions and Ruptures in the Empire was that terrible Earthquake, which *Marcellinus* writes to have happened in this Consulship of *Ætius* and *Symmachus*. It raged in very many places, and therein overturned very many Cities. The Wall of *Constantinople*, though but new built, it threw to the Ground with fifty seven Turrets: Stones of a great Bulk, lately placed in Building of the *Forum* of *Taurus*, fell down, yet did no other hurt. But many Towns being ruined, a pestilent vapour arose, which caused a Plague, and this, joyned with a Famine, destroyed many thousands of Mankind. This Earthquake we take to be the same with that which *Evagrius* writes to have happened in *Theodosius* his Reign, and said to have been the greatest and most memorable of all others: such, as by its greatness, rendred inconsiderable all that were before it. It afflicted, he had almost said, the whole world. Many Towers in the Palace fell to the ground; the Wall of the *Cherronesus*, called the *Long*, tumbled down; the Earth gaped, and swallowed many Villages, besides other many, nay, innumerable other Calamities both by Sea and Land. Some Fountains were dried up, in other places water in great quantity broke out where formerly it had not been known; great Trees were torn up by the Roots; heaps of Earth were so shaken together, that they were raised into Mountains. The Sea cast forth dead Fishes; in it many Islands were overwhelmed and sunk; Ships sailing on the Sea, by a sudden retrocession of the Water, were left on dry ground. In conclusion, many places of *Bithynia*, the *Helleſpont*, and both the *Phrygias* were grievously distressed. And this Disaster a long time, and sorely afflicted the world; but yet continued not in the same fury, but by degrees grew less, and languished, till at length it wholly ceased.

Lib. I. c. 17.

37. *Nicephorus* out of other Authors writes, that it continued six Months, and that in a manner without intermission. That it reached *Alexandria*, but especially afflicted *Antioch*, the choicest rarities of which it broke or spoiled; for besides the Countries mentioned by *Evagrius*, it invaded the greatest part of the *East*; and

Lib. I. c. 46.

Sect.

ed not many Regions of the West. He adds, that the People of *Constantinople* daring to stay in the City, for fear of the fall of Houses, continued, together with the Emperor, and *Proclus* their Patriarch, in the Field, wholly intent upon Prayer for the Removal of so heavy a Judgment; which, at last, was stayed, when a Boy, being taken up into the Air, and let down again the same way, told them of an Hymn he had heard sung by Angels; which they then applied themselves to sing. That this Hymn was afterward constantly used in the Church, being enjoyed by an Edict to be sung throughout the Empire: and the *Greeks*, in their Menology, retained the memory of the thing; besides what is written of it by eminent persons living at that time. But *Theodosius*, when he was delivered from the danger of the Earthquake, presently set himself to repair the Walls of *Constantinople*; and *Anthemius*, in the space of sixty days, did indeed, raise the greater part of them which stood upon dry Ground; and, by extending the *Pomarium*, did very much enlarge the City. But *Cyrus*, the *Præfekt* of it, restored all that was fallen, and what ever else had by Age been broken; and raising it to a sublime height, put the City, as it were, into a new Form and Aspect. In so much, that when, on a time, *Theodosius*, in the *Hippodrome*, was beholding an Horse-Race, the Citizens, much taken with the Structure raised by *Cyrus*, cried out; *Constantius built, and Cyrus restored*. The Emperor was enraged thereat; and, under pretence that he was addicted to the Superstition of the *Greeks*, deprived him of his Dignity, and put to Sale his whole Estate. The man, much dejected, betook himself to a Church, though lately of the Pagan Profession; and was made the Christian Bishop of *Smirna*.

38. But *Theodosius* his humour now standing for the deposing of persons from their Dignities, was at this time hurried so far, by tricks of certain persons, as *Nicephorus* tells the story, that it reached his Sister *Pulcheria*; her that had been his great Assister at the Helm, and had kept the Government upon his shoulders. The matter was first contrived by *Chrysaphius* the Eunuch, and great favourite of the Emperor: who, being displeased that *Flavianus* was made Patriarch in the room of *Proclus*, lately deceased, and perceiving he could not remove him so long as she was in power; first provoked *Eudocia*, his Wife, against her, knowing the Jealousies and Emulations of Women: To set them by the ears, he perswaded her to remove from *Pulcheria* the Steward of her House, who managed all her matters; and she tried all means with her Husband to do it, but without success; he was, as yet, so sensible of the merits of his Sister. But at length he prevailed that *Flavianus* should be required to make her a Deaconness; it being the custom, as for Great Men to be drawn by force to Bishopricks, so for Eminent Ladies to be chosen no otherwise to that Office or Employment. The Patriarch knew not how to shift it off; but, promising to discharge his Duty, gave her secret Intelligence of it by Letter, with advice not to come to him, lest he should be forced to do that which he himself could not but dislike. She hereupon, delivering her Steward to *Eudocia*, departed to the *Hebdomus*, there to live a private and quiet Life: and the Conspirators perceiving that *Flavianus* had revealed their design, turned all their malice against him, and *Eudocia* now got the Power for a certain time. But there goes another report, of an occasion given by *Pulcheria* her self, to her Brother, to alienate his Affections from her; though the same fine story, in a manner, be told of other careless Princes.

39. She observing how he was wont, out of lazyness, to sign all Papers that were presented to him without reading, thought to convince him of his folly, and cure him of that Distemper, by a Jest. She drew a Writing, whereby he should make Sale to her of *Eudocia*, his Empress; and this being offered to him, he as readily subscribed as the rest. This done, when the Empress came to her she kept her for some time, and would not let her go when he sent for her; alleading that she had bought her, and for that produced the Emperor's Hand; who was offended with the freedom, as Princes usually are in like Cases; and was urged and inflamed by his Wife, who, grudging her her power, took this opportunity to put her out of his good Opinion and it both together. And she was the more moved to flatter him, and ruin her, because she her self had of late incurred his Jealousie and Displeasure. There had been presented, you must know, to *Theodosius* an Apple of wonderful bigness, as a Rarity; and this Apple, out of kindness, he bestowed upon his Wife. She had a Favourite called *Paulinus*, with whom she was familiar upon the account of Learning, and that, as was thought and suspected by some, more than she ought to be. To him she gave it; and he knowing nothing whence it came, made a Present of it to the Emperor, as some means to gain his Favour; who, receiving

A. 1
446Trisagion
Eius D.
Eius P.
Eius I.
Eius M.
Eius S.
Eius V.
Eius A.

Pulcheria forced to retire to a private Life.

Zon. ar. 25.

ect. 5. ceiving it now, asked his Wife, what was become of the Apple? She affirmed, she had eaten it; and then, by producing it, he convicted her of Untruth and Unfaithfulness; and for this reason he was long alienated from her in his mind, and *Paulinus* he commanded to be put to death. But thus was *Pulchra*, after that, well nigh forty Years, she had steered the Realm with great prudence and industry (for this was the thirty ninth of her Brother's Reign) removed to a private Life, to the great detriment, both of Church and State.

40. Yet, by that care *Theodosius*, this Year, took for the cautious enacting of Laws; one would have judged him more circumspect and wary in a matter of such consequence as deposing of his Sister. For, being convinced, it seems, of the great Inconvenience which Precipitancy in him (who had the Legislative Power) brought to the Empire, probably, by some Remonstrance, or Petition, made by the Senate, he directed back to it a Rescript, or Oration, to give Remedy in that very Affair. We think it, faith he, an Humane thing, that if, for the time to come, any necessary matter should happen, either in a publick or private Cause which may require a general Form (or Order) which is not inserted in the ancient Laws, it be handled, or debated, before; as well by the Nobles of our Palace (*Proceres*) as by your most Glorious Assembly, *Conscript Fathers*: and if it shall please all the Judges and you, then, that it be written down, and after that, in a full Assembly, it be read over; and if all consent to it, that then it be recited in our Sacred Consistory (*Numinis nostri*) that the Consent of all together may be established by the Authority of our Serenity. Know ye therefore, *Conscript Fathers*, that, for the future, no Law shall be promulged by our Clemency, except the aforesaid Form be observed. For, we well know, that what shall be ordained with your Advice, will redound to the happiness of our Empire, and to our Glory. This Solemnity he would have observed, for the more certainty in making Laws; and *Fustinian* put the Constitution into his Code, though we know not whether always he observed it in the making of his numerous Edicts, seeing that, as he alleadges in his own behalf, for repealing any thing the Ancients had done in such cases, by the old Law, called *Lex Regia*, all Right, and all Power of the *Roman* People, was translated into that of the Emperor.

41. We find no more Constitutions made this Year by *Theodosius*, but two or three by *Valentinian* in the West. There was ever arising some new Accident, which afforded new Questions concerning Testaments, and especially, betwixt Man and Wife; the ancient Laws having, as we have formerly said, prohibited such Bequests, for reasons which then seemed very urgent. But, as *Legislators*, in making and altering Laws, must receive their Directions from Matters of Fact, as this Emperor expresseth it; a change of Customs and Manners must consequently produce a change of Ordinances. And therefore, now, at the desire of *Leonius*, one to whom he gives the Title of *Speſtabilis*; and betwixt whom and his Wife *Fucunda*, so much Affection there was, that they desired to have the *Fus Liberorum*, or to leave each other their Heir, as it should happen; He added this to former Constitutions; that Married Persons, if they had no Sons, might leave each other their Heirs; whether they would do it by one Instrument alone, or else mutually make their Wills. Provided, that if any had just Ground from the Law, to bring the Complaint of an *Inofficious Testament*, such Action shall lie. And, because many Accidents happened about Witnesses of Testaments, and sometimes Witnesses could not be had; from a Petition of one *Pelagia* (an Illustrious Woman he styles her) he took occasion to ordain something more in such Cases. One *Micce*, another Lady of the same Quality, designed to leave her her Heir: but, not having any fitly qualified to witness her Will, yet wrote it all with her own hand before she expired, and delivered it to *Casarius*, a Tribune and Notary (*Vir Speſtabilis*, he terms him) being her Brother's Son; one who, by reason of his Nobility, and nearness in Blood, she judged would be very faithful to her. And he did not at all betray his Trust, but published the Will with the same honest meaning he received it. But *Pelagia* was so modest, as, scrupling her Right, she would not meddle as Heir, except the Emperor would approve of the Justice of her Cause. Upon consideration of the whole matter, he now confirmed what *Micce* had done, who could not have any other Witnesses of her Will than her Brother's Son, and her own Writing. He declared her therefore Heir for so much of the Estate as the present Writing did name her.

42. And that he might not deny the benefit of this Statute to Mankind, he now decreed, that it should remain as standing Law; that If any should make choice

Sect. 5. to write his Will with his own hand, he should have free liberty to do it ; for “ as much as in many cases it happeneth, that the opportunity and number of Witnesses are wanting, and cannot be had by dying persons. “ Thus, from these Novel Constitutions we understand the particular occasions for making of the said Laws ; whereas the Compilers of the Codes, studying Brevity, cut off all such Prefaces, and have left us the bare Sanctions ; a thing indeed which hath prevented swelling of Books : but I know not whether it have saved the Student labour, or made him more, the History of the Case laid down in such Prefaces bringing extraordinary great light to the understanding of the Laws, as the Conclusions inform us of the manner of the Emperor’s Stile, or of writing to his Ministers. Being now inclined generally to give relief, the Report of *Albinus*, the *Præfectus Prætorio* and *Patrician*, found good acceptance with him in behalf of his own Office, and the *Numerarii* belonging to him ; inasmuch, that he implicitly chides him for not making the Suggestion sooner By the Medicine, we may know the Disease ; for he declares, that Although, before his full time expired, any belonging to the Office of the *Præfect* shall, by virtue of his Testimony, obtain any honest Mission, either out of love to quiet, or for some other Employment, he shall not for it be molested. Neither shall the *Numerarii*, who were Auditors of publick Accounts, be subject to any Discussions or Questions after five Years time expired ; within which time he judges that truth, although latent, may be discovered ; especially, the condition of no Man being to be so grievous, as to have no end of his solicitude and fear. Further, he takes care for preventing the molesting and suing of these Officials for Expenses about Payment of publick Moneys, when the Creditors were in fault ; who would put it often to other Uses, and ought to be punished with a forfeiture of it. This Indulgence he thinks fit to confer on them, for preservation, he saith, of their Safety and Fortunes ; and allows, that they have *Mensores* assigned them, for their peaceable taking up of Quarters, of which of late they had been deprived. Thus we see how the case alters. How many Laws have we formerly met with, to restrain the Injustice and Violence of Officials ? Now they have need to be protected against those they have formerly oppressed. And, of the reality of this need, the Emperor was so far possessed, that he orders the *Præfect*, to whom he gives the Attribute of *Parent* of the *Augusti* and *Inlustris*, and *Præcelsa Magnificentia tua*, to publish this most just Law by his own Edicts ; that it may appear to all Men, how in his time no other thing is to be granted but what is decent to be obtained. “

And in favour
of his Officers.

A. 1
4 4

Nov. 46.
Valentinian
Theodolus.
Dat. 1. 7. 6.
Jan.

Anthemius de-
feats the *Huns*.

43. After this tedious Year, we arrive at length at the CCCCXLVII of our Lord ; wherein were *Consuls Alypius*, or *Calypius*, and *Ardaburius*, or *Ardabures*. This we find to present us with almost as little matter as that gave us occasion to be large. For, what we then said concerning the Invasion of *Attila* is to be extended both to this Year, and the following ; his outrageous Acts, and the buying him off having taken up considerable time. From the *Panegyrick*, written by *Sidonius Apollinaris*, to *Anthemius*, afterwards Emperor of the West, it appears, that the said *Anthemius* fell upon the *Huns* as they roved through *Dacia* ; that, not far from *Sardica*, he drove them up into a narrow compass, several times worsted them ; and, keeping exact Discipline in his Army, notwithstanding it wanted both Meat and Drink, engaged in a bloody Battel ; wherein, though his Colleague played false, and thereby the Fortune of the Day was endangered, yet failed he not in Courage ; but, by his vehement importunity, got his flying Men to rally ; and renewing the Fight, though the Enemy, after that he was put to the worst, came up again ; yet he defeated him, and granted him Peace, on condition that he killed the Traitor ; who, accordingly, as he expresseth it, fell a Sacrifice to Justice, by a Foreign Sword. Now, for as much as *Marcellinus* writes of *Aragistus*, or *Arnegistus*, the *Magister Militum*, his being slain by *Attila*, in *Dacia Ripensis*, though he fought well, and had killed many of the Enemies ; *Sigonius* will have him to have been the Colleague of *Anthemius*, and the Traitor mentioned, though this Expedition fell out twenty Years before *Anthemius* came to be Emperor ; and so, he must have been a long time in the greatest Actions. And *Marcellinus* writes, that *Attila*, after the death of the *Magister Militum*, continued his Depredations as far as *Thermopolis*. If we follow *Sigonius* in his opinion, we must add, that some other Accident happened after the Victory got by *Anthemius*, which obliged the Emperor to purchase Peace of *Attila*. *Forandes* making mention of him that was killed, calls him *Arnegistus*, and *Magister Militum* of *Mæsia* ; and adds that fighting valiantly near *Marcianopolis*, his Horse fell under him ; and when, in that condition, he ceased not to fight, he was over-powered and slain.

A. 1
4 4
Alypius
Ardabur
Coff.
Carm. 2. 9. 2
Edit. Huns
1617.

De Regn. c
temporum
offensio.

44. The

44. The same Author, in another place, cites a passage out of *Priscus* his History, now lost, how the Historian himself was sent on an Embassy, to *Attila*, by *Theodosius* the Younger; and produceth for it his own words. Passing over, "saith he, the great Rivers of *Tysia*, *Tibisia* and *Dricca*, we came to that place "where *Vidicula* (some read it also *Vidigoia*) the most valiant of the *Goths*, fell by "the Wiles of the *Sarmates*. Thence we passed to a Village not far distant, in "which *Attila* then made his Abode; a Village, I say, like a most large City: "where we found wooden Walls made of vast Boards, so artificially joyned together, that they seemed to be all of one piece, and could scarcely be discerned to "be several by one that intently beheld them. You might have seen the Rooms "very large, and *Porticusses* furnished with all neatness. The Court of the House "it self was hung round to a large compass; so that it resembled a King's Palace. "This was the Seat of King *Attila*, the Lord of all *Barbarians*; and such like Lodging he preferred before such Cities as he took. He adds, that he was the Son of "*Mundzuccus*, and had two Brothers, *Oskar* and *Roas*, who reigned over the *Huns*, "although not all, before *Attila*." Whether this Embassy was undertaken upon this very occasion we cannot certainly say, but probably it might; though, had it not been for his preferring that Village before the Cities he had taken, we should have thought, from the names of the Rivers, the place where they found him, not to have been within the Empire.

45. In these uncertainties, where we have no full direction, *Sigonius* makes another probable guess, from another passage he found in that Epistle of King *Theodorich* to the Senate, formerly mentioned by us; wherein he extols the Virtues of *Cassiodorus*, his Chancellor: that, at this time, *Valentinian*, lest he alone should be exposed to the lust and fury of *Attila*, after the Peace made by his Uncle, sent his Ambassadors also, to take up the Quarrel. For, *Theodorich* having told the Fathers how *Cassiodorus*, the Father (not the Grandfather, as *Sigonius* mistakes) of *Cassiodorus Senator* his Chancellor, laudably bore the Dignity of *Tribune* and *Notary*, under *Valentinian*: adds, that As persons are wont to make choice of such as are "like themselves in disposition, he was, with great dearness, associated with *Aetius*, "in Acts tending to the Assistance of the State; whose Advice then the Emperor (*Rerum Dominus*, he calls him) in consideration of his Wisdom and glorious "Labours in the Commonwealth, in all his Counsels, followed. He is (and that "not to no purpose) appointed, together with *Carpillio*, the Son of *Aetius*, to go "Ambassador to *Attila*. He beheld him without trembling, whom the Empire "feared. Being backed with Authority, he despised that terrible and threatening "Countenance; neither did he forbear to contradict him, even in his talk; who, "carried away with I know not what fury, seemed to aim at the Sovereignty of the "World. He found the King insolent and high, but he left him pacified; and so "refelled his scandalous Speeches, that he sought to be reconciled; whose interest "it was not to have Peace with that most opulent Kingdom. His Constancy gave "relief to the fearing Party; and they were believed not to be weak and inconsiderable, who seemed to be armed with such Ambassadors. He brought back Peace, "which was not expected; whose Embassy, what it produced, thence did appear, "that it was as acceptably received, as it was desired it should be. As for the Ambassador, he adds, that he had presently Honour conferred upon him, and the "Emperor offered him, as a just Master, a Revenue for his pains. But, he being "most rich in his own Native Moderation, having a Vacant Dignity in way of Reward, departed into the pleasant Country of the *Bruttii*. He could not deny him "his desired rest, who had rendred him secure from a Savage Enemy; but was "sorrowful to dismiss him, whom he knew to be one of his most useful Servants.

46. That *Cassiodorus* was now sent upon this Errand, all things put together, and considered, render most probable, whether we respect Persons or Times. But of any Embassy returned by *Attila*, to either Emperor, we hear nothing: he was not so full of Courtship. But this we know, that, toward the latter part of the Year, *Valentinian* received a Message from his Uncle and Father in Law, in a Missive directed from *Theodosius*, to the Lord *Valentinian*, famous Conqueror and Triumpher, ever *Augustus*, his Son; and penned according to this form. After that we had "reduced into the Body of one Code both the Constitutions of former Princes and "our own, our Piety shortly after published another Law, which should give Force "and Authority to the Code already made; and command that, in Judicature, such "Laws should not prevail as were not produced out of it. But, in case any Law "was afterward made by either of us, that which was constituted in general "should "

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should then also obtain force, and be valid in the Kingdom of the other Prince, if it were sent unto him by divers Writings. Therefore, for as much as for several emergent Causes, the necessity of matters arising hath put us, in this Interval, upon making other Laws, which, by reason of our being diverted by perpetual business, could not be brought to the Knowledge of thy (true) Majesty; we have thought it necessary, now at length, to transmit them all to thy Serenity, with the Subscription (or Subnotation) of our Majesty; that by that means they may be known solemnly to the Subjects, Provinces and People, and the force of them may begin to be observed also in the Western Parts. And such Suits or Causes as are begun, but not terminated at the time of their Publication, we will have ended, according to their Tenour. But such as are already decided by definitive Sentence, or by Agreement made betwixt the Parties, shall in no wise be again revived. Therefore, *Most Sacred Lord, Venerable Son, (Augustus)* cause them to be divulged to all Men; and also, whatsoever your Serenity hath in that time promulgated in a general manner, to be sent, in like manner, back, with the Adumbration of thine own hand, to be heeded and observed by the Provincials, and all the Eastern People. Given, the first of *October*, at *Constantinople*, *Ardabures* being *Consul*, and he who shall be made known to be so.

A. D.

447.

47. By the Date of this Letter for Confirmation of *Theodosius* his Novel Constitutions, we may easily believe there was no very frequent Intercourse betwixt *Constantinople* and *Ravenna*; and a wonder it is, if the Text be not corrupted, that at the beginning of *October*, they in the East should hear nothing of *Aypius* being *Consul*. We may take notice also, that though Princes spake in words denoting the Plural Number, as to themselves; as *Nos*, *Noster*, and the like: yet, though to their Equals, they used still the old Expressions of *Tu* and *Tuus*. But, as they at *Constantinople* took no great notice who was *Consul* in the West, they at *Ravenna* or *Rome* were something even with them, being as careless who in the East had obtained that now decrepitate Honour. For we have two Constitutions of *Valentinian*, dated on the twenty fifth of *April*, wherein *Calpurnius* is only mentioned. He had been informed by *Florianus* the *Præfect*, or rather, *Comes Largitionum*, how several Merchants or Traffickers managed their Trade clandestinely, in Villages, holes and private places; in so much that they quitted the great and famous Cities, with design to defraud him of the usual Impost, upon Merchandize, or the *Auraria Functio*. By a Rescript, he ordered him to redress this mischief; and to take care that such as had left the Cities, and disposed themselves through meaner Towns, Ports, and private parts of the Country, should be apprehended, and constrained to pay the several Dues. The same Person had further let him understand, how the *Palatines*, or Officers belonging to the *Largitiones*, were so bold as, before their time expired, and without leave, to forsake the Service, to the further hindrance of his Revenue. To give some stop to this, another Rescript was (as now we have it) directed to him, requiring him to take a course, that All such who, before their time was out, and without Testimony, or leave obtained from the Treasurer (whom he calls their *Præful*) had betaken themselves to Ecclesiastical Offices, or other Employments, or *Militia*, should be deprived of the name of *Clerks*, and the privilege of the Superior Girdle (so he words it) and returned back to the *Palatine* Office and *Militia*, which they had contumaciously deserted, except they had been long out of that Service. That this should be prevented for the future, and the Judges of Provinces quickened up to be more diligent, as to the levying of the ordinary Income.

Novel. 27.3
Valentinianus
Theodosianus
Dat. 7. Calid
Roma.

Novel. 1.1
Valentinianus
Theodosianus
Dat. 3. Maii
Roma.
Nomin. C.
rum & p.
gio cinguli
perioris ex

48. But, about the beginning of *June*, the curiosity of the *Romans* concerning the Eastern *Consul*, we find, was satisfied from another Constitution; in the Date of which, *Ardabures* is joyned with *Calpurnius*. Great Complaints were made to *Valentinian* of the ill usage of *Liberti*, or Freed Men, by reason of that great Indulgence given by the Laws to the Heirs of their Lords, by whom they had been manumitted; under pretence of Ingratitude, they would reduce them again to their former slavery, sometimes for slight Causes; wherein, as they abused that favour the Laws had given them, so the *Liberti* conceiving themselves not so much obliged to them as to their own Patrons, and provoked by their ill usage, as happens in such Cases where Offences are mutual, returned such things as they accounted Affronts; and so the matter arose to a publick mischief. *Valentinian* having it represented to him as really such, seriously considered how to accommodate it; and at length determined the Affair in a Rescript to *Albinus*, now the second time *Præfectus Prætorio* and *Patritian*. The Decision was this, that No *Liberti*, if they were made *Roman* Citizens, upon occasion of Ingratitude, conceived from some matter

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shortning of them. Against all such Actions as were perpetual, or had no Limitation set them by the Laws (which, in several Cases, provided for the extinguishing of them) he declared; that the Prescription of thirty Years should be good. Yet a Constitution so well intended had not such effect, but that now *Valentinian* was forced to interpret it, to obviate the false Glosses which several put upon it; who, "to evade the Justice of it, found out various tricks and quirks of Law." The Edict of *Valentinian* is directed to *Firminus*, the *Præfect* of *Italy*; but there was no greater need of it than in *Gall*, where it was universally received with great satisfaction; so troublesome were some people, notwithstanding they had several sorts of Foreign Enemies in the Country, to create disturbance to their Neighbours by a Litigious War, or that of Suits. At this time, when the Edict was received, the Father of *Sidonius Apollinaris* was *Præfect* of that District, as appears by an Epistle of this Writer; who therein insists much in Commendation of one *Nicetius*, an Orator, by whom it was first published in that Country.

51. The Year C C C C L, wherein *Valentinian* the seventh time, and *Avienus* were *Consuls*, was accounted a Year of Jubily, in that it gave rest (we hope) to *Theodosius* from all his Labours; and Quiet to the Church, which now had been much disturbed by the Heresie of *Eutyches*. This, it is said, he favoured: But at length he came to see how he was abused, to acknowledge his Error, and punish *Chrysaphius*, the Eunuch, who had procured this and other great Enormities. He died on the twenty ninth of *July*, having reigned forty two Years, and about three Months, from his Father's death; in the forty ninth Year of his Age. Some say, of Sickness; and particularly, of the Plague. Others, that, going out to hunt, he fell into the River *Albus*, and died the Night following. And some only write, that he fell from his Horse, without mentioning the Water. As to his Character, all generally agree in his Commendation, while he was advised by his Sister *Pulcheria*. *Socrates* much insists upon it; who writes, that, though he was born and educated in the very Palace, yet was he not of any light or idle Behaviour; but so discreet, that, to those who conferred with him he seemed a Man of great Experience. In the Exercises of Religion he was diligent with his Sisters. And, whereas the Emperor *Fulian*, though he professed the Study of Philosophy, yet could not digest the Affronts of such as reviled him at *Antioch*; but punished extraordinarily one of them, whose Name was *Theodorus*; he, setting aside the Subtilties and Quirks of *Aristotle*, daily both professed and practised the true Philosophy: For, he learned to bridle Anger, to take Grief and Sorrow patiently, and to take Revenge of none that did him any Injury. Nay, it is said, there was none that ever saw him angry. He was averse to the punishing of Malefactors, and easily would pardon them. He could not endure the cruel Shows of the *Gladiators*; and, by his discouraging of them, the people learnt to dislike and abstain from them. With *Socrates*, others accord and add, that his Defects were, too much easiness and proneness to be drawn and perswaded. As to his Activity in Wars, we find none, but that he managed them all by his Officers, as he did the Civil Government by his Sisters and his Ministers. His Wife, as we said, was *Endocia*, the learned Daughter of *Leontius* the Philosopher; for she was an excellent Poet, and wrote several Poems (amongst which, *Homerocentron*) and by her he left only *Eudoxia*, Wife to *Valentinian*, his Colleague. *Eudocia*, by her Emulation had procured much the Disagreement betwixt him and his Sister, which, after the Retirement of *Pulcheria*, he was sensible of. And thereupon, unkindness growing betwixt them, she went her way, in his life time, to *Jerusalem*; and that not without his own Appointment.

52. The most considerable thing of his Reign is the compiling of his Code; and next to that, the Publication of his Novel Constitutions. All which put together, make up a plentiful Harvest, as to Laws; but yet are behind some few Gleanings; which being loose, and out of the Ligaments of Chronology, as being without the Notation of *Consul* or *Day*, could not be taken in with the rest. Of those which concern the Commonwealth or Civil Government, one directed to *Hormisdas*, as *Præfectus Prætorio*, is very observable; which makes two *Metropoles*, or Mother-Cities in one and the same Province. For many and just Causes, saith he, we decree the City of *Berytus* to be adorned with *Metropolitan* Name and Dignity, already crowned by its Vertues. Let it therefore have also *Metropolitan* Dignity. From *Tyre* let nothing be derogated of its Right: Let her be Mother of the Province by the kindness of our Ancestors, and the other by ours; and both enjoy the like Dignity. Thus were two *Metropoles* constituted in *Syria Phænice*: *Tyrus* first, by the Favour of *Adrian*, at the Request of *Paulus* the *Tyrian* Orator; and now *Berytus*, that

A. D.
449.Novel. Valenti.
8. Dat. 15. Cal.
Jul. Ravenna
P. P. in for
Trajani, 13
Cal. Aug. 5.
diſto F. 7. 11. 12.

Lib. 8. c. 1.

A. D.
450.
Valentinian
A. 7. C. 4.
cno. C. 1.Lib. 7. c. 1.
41.Lun. 6.
poli. B. 11.
Juſt. lib. 11.
21.

that famous University for the Laws. In like manner, in *Pontus* are found two; viz. *Amasia* and *Casarea*. And as many in *Cappadocia*; viz. *Casarea* and *Thyana*. As he concerned himself thus for the Dignity of Cities, so also, for that of Persons. For, in an Oration directed to the Senate of *Constantinople*, still extant, but without Date; He determined, that, Amongst such as had been *Consuls*, he should preceed who had first born the Honour, notwithstanding one after him had twice enjoyed the *Fasces*. And, if such an one give place to another, if he be both *Consul* and *Patritian*, in case that elder *Consul* obtain afterward the *Patritiate*, he shall recover his former Station. He favoured those also of his Chamber so far as to give them Immunity from finding Carriages and Beasts for publick Service; and to except their Houses, in all Cities whatsoever, from the Burthen of Quarter. To the *Cornicularii*, *Primiscriinii* and *Numerarii* belonging to the *Praefectus Pratorio*, he also granted Privileges: as also, to the *Numerarii* of the *Magistri Militum*. But, by another Law, the Date whereof is also lost, it is cautioned, that no person of whatsoever Order or Dignity, not the *Sacrosanct* Church, or the Emperor's own House, be excused from the burthen of *Angariae* or *Parangariae*, in the time of Expedition.

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to he was.

53. By the death of *Theodosius*, the care of the Empire was again devolved upon *Pulcheria*. The care of it, I say, if not the Empire it self; for, she had the Title of *Augusta*, not merely as had an Emperor's Wife, which shone in the Beams of her Husband's Majesty; but, as we may say, by way of Co-ordination. However, it had not been the custom, as yet, in the Empire, for Women to reign alone, either in the East or West. And therefore she resolved, though now above fifty Years of Age, to make choice of some worthy person, and every way fit in years and discretion; and marrying him, to qualifie him for the Empire. Her Choice fell upon *Martian*; and she procured that, by a *Senatus-Consultum*, the Dignity of Emperor should be conferred upon him: till which could be effected, it is said, that she concealed her Brother's death. This *Martian* was, by Birth, a *Thracian*, and Son to a Soldier by Profession; to whose Trade of Life bearing an Affection, he went to *Philippopolis*; where he was entertained amongst such as had given up themselves to the Study and Practice of Arms. It happened in his Journey thither, that he light upon the Body of a Man newly dead; at which sight, being amazed, and of a singular good Nature, he so long continued with it, till he had provided all things necessary for a decent Burial. But some that had opportunity to see what he did, taking notice of it, made relation of the matter to the Magistrates of *Philippopolis*; who apprehended him, and charged him with the Murther. Signs and Conjectures prevailed with them more than the truth could do unknown, or the Protestations of *Martian*; who was now ready to abide the Punishment due to that Crime, when, on a sudden, unlooked for, the Author of the Fact was discovered, confessed it, was executed, and he thereby escaped death. Being so wonderfully delivered, he betook himself to a Company of Soldiers lying not far off; and amongst them desired to be listed. They had the Man in admiration; and prognosticating by certain Gueffes, that he would prove a great Person, received him willingly, and enrolled his Name: placing him not in the lowest Rank, as a late Comer, or Fresh Water-Soldier, according to the custom of Military Law; but preferring him to an Honourable place, which one lately dead, whose Name was *Augustus*, enjoyed before him; whom he also imitated in his very Name: so that, with his Preferment, he received the Imperial Title before he was promoted to that Sovereign Dignity, the Emperors themselves being called *Augusti*, as *Evagrius* informs his *Græcian* Country Men.

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54. *Evagrius* subjoyns the story of another passage which portended the Imperial Dignity; and it is the same we find in *Procopius*, in his History of the *Vandalick* Wars. *Martian* served in *Africk* against that People, under the Command of *Aspar*; and fought against *Genferich* in that Battel wherein *Bonifacc*, he, and many of the *Romans* were defeated. Amongst others, *Martian* was taken Prisoner; and, with them, ordered to be brought into a Field, where *Genferich* might have the contentment to view them, and consider on what Masters to bestow them. Continuing in the place, and diverting themselves as they pleased, for *Genferich* had given order to their Keepers, to take off their Shackles, some lay down to sleep; and amongst them that slept, was *Martian*. It was Noon time of day, and the Sun was hot; but the report went, that an Eagle hovered upon him; and spreading her Wings over his Head, therewith covered him, and protected him from the heat; which *Genferich* took notice of, and, upon the sight, conjectured what would befall him.

Sect. 5.

him. He called him to him, and demanding who he was ; He told him, he was the Domestick of *Aspar*, which, when he heard, considering what he had seen the Eagle do, and how great a Man *Aspar* was at *Constantinople*, he thought it fit not to kill him, which if he did, what he judged was presaged could not come to pass, but gave him his liberty, making him swear, that he would not take Arms against the *Vandals*; and though after the death of *Theodosius* he was promoted to the Empire, yet shewing himself in all other respects an excellent Prince, he found the Affairs of *Africk* as he left them. *Pomponius Latus* to this Relation of *Procopius* adds another, That being born of obscure Parents, and having served first in *Lycia*, falling into a sickness, he was kindly entertained in the House of *Tatianus* and *Fulius*, two Brothers, where recovering of his Disease, he went out afterward with them to hunt. The heat of the day much afflicting him, they rested for some time in the Shade, where *Tatianus*, first looking up, saw an Eagle in the Air hover over him, at which astonished, he raised his Brother, and shewed him the sight: when the Soldier was awake they told him the thing, and therewith foretelling his high fortune, furnished him with two hundred pieces of Silver at his departure. This Story which seems framed out of the other, possibly gained more belief, because it is further said, that when *Martian* came to be Emperor, he forgot not the Hospitality of these Men ; but sending for them, preferred *Tatianus* to the Government of *Constantinople*, and *Fulius*, his Brother, to that of *Illyricum*.

A. D]

45

Prætors at Constantinople reduced to three.

55. To be sure *Martian* was now elected Emperor, and being well approved of by the People, easily afterward obtain'd the consent of *Valentinian*, as well upon the account of his own worth, as the choice of *Pulcheria*. How he advanced that *Tatianus* and his Brother we know not ; but at the end of the Year we find an Edict directed by him from *Constantinople* to one *Tatianus*, by the Title of *Præfectus Prætorio*, as the Copy now hath it ; but the Subject of it indeed relates to the *Prætors* of that City. The Reader may remember how many *Prætors* were in *Constantinople*, according to the various fancies of several Princes, sometimes four, five, eight ; as in *Rome* in old times were eighteen. Now *Martian* thought fit to reduce the Number to three ; and those he commanded yearly to be chosen at the discretion of the Senate, out of such as lived in Town, and not in the Provinces, who were not to be compelled, if unwilling, to do certain things, but left to a spontaneous liberality. At his first coming to the Government he received great Complaints how those that were Plaintiffs, were wont to draw the Defendants out of their own Countries, and begin their Actions, Civil, or Criminal, either before the Emperor himself, or his great Ministers. To obviate this practice, he published an Edict whereby he commanded, That all persons, except in necessary cases, should be convened in the Provinces where they inhabited, according to the old custom and Axiom ; and this he would have extend, as well to Military, as other Persons. About the same time he was put in mind by *Palladius*, the *Præfectus Prætorio* of the *East*, how seasonable and acceptable a thing, now at the beginning of his Reign, it would be, to remit the Arrears of Tributes ; the exaction of which was very grievous to the People.

L. 2. de Off. Prætorum, 15. Cal. Cod. Jul. tit. 39.

Novel. M. ni 1. Dat. Octob. Aliquitur in Rei.

Novel. M. ni 2.

Martian remits Arrears of Tributes by notable Law.

56. To this information he answered by a Rescript directed to him, as also to *Hermogenes* the *Comes Largitionum*, *Gennadius* the *Comes Rei privatae*, and *Maximinus* the *Comes* and *Præpositus Cubiculi*, that it was his very care to provide for the emolument and ease of Mankind. That day and night he was solicitous so to order matters, that all Men living under his Empire might by his Arms be protected against hostile violence, and in peace enjoy liberty and security. Therefore he could not but admire the laudable suggestion of his *Highness*, who amongst several virtues, for which he was eminent, was also remarkable for his Humanity. He approves of his advice, and therefore from the beginning of the sixth Indiction, to the end of the fifteenth, lately past ; he commands the exaction of Arrears to cease, whether belonging to the Patrimony, the Temples, whether of Civil or Fiscal Right, whether due in Gold or Silver, in Specie Metals, or any other Title of Collations remaining in the publick Tables ; whether they appertained to the *Arca* or Chest of him the *Præfect*, to the *Treasury*, the *Ærarium*, the *Cellaria*, *Res privata*, or the *Works* of the famous City of *Constantinople*, they shall all be remitted to the *Collators*, *Curiales*, or *Provincials*, and to others obnoxious to them. And this his liberality shall hold good notwithstanding the matter were past into private Contract, or a publick Debt, so as the Officers shall exact nothing, though they had engaged for the Debtors, or pretended to have laid

out

Sect. 5. feit the price to the Buyer. And because, in the late Wars and Disturbances, " *A. 1*
 great Disorders had happened, in reference to Possessions; and great scarcity there " *45*
 was of persons skilled in the Law: so that, in some Provinces, neither *Advocates* "
 nor *Judges* were to be had; and scarcely any learned man in that Profession was "
 to be found; he took care for confirming the Alienations made by the *Curia-* "
les amongst themselves, though without the Interposition of a Decree; and pro- "
 vided that such should be good for the time to come, if duly entred and attested "
 by their *Concuriales*. And, as for *Advocates*; that, if a *Curialis* have a desire to "
 betake himself to that Employment, he may do it, if he leave another in his place "
 to discharge his duty toward the Corporation. " But, such was the scarcity of *Ad-* *Nam hac ne-*
tas fecit po-
tuitatem dai
Provinciali
Advocatis.
Advocates in this Age, that there was a necessity of having them perpetual in the Pro-
 vinces, as *Valentinian* affirms; whereas formerly the *Romans* found cause to be so
 jealous both of them and Judges, as to suffer neither sort to act but for a time. The
 Emperor, in this Edict, makes mention of *Alarich*, and derives the mischief from
 his first Invasion of *Italy*; but he had shortly occasion to forget him and his Acti-
 ons, being struck with the Report, how *Attila* now was falling into the Western
 Provinces; which he did like a Thunder-bolt: and so behaved himself, as delight-
 ing both to be, and to be called, The Scourge of God.

60. Having had no good success in the East, he was advised by his best Friends, *Paulus Dia-*
 to leave off these formerly in vain attempted Conquests, and try others in other *nus Alii.*
 Countries; as in *Germany*, that thence he might pass into *Gall*, *Spain* and *Italy*; *Vide Sabell*
 where *Valentinian* reigned, and the Empire was divided, and possessed by divers *Ennead. 8. l.*
 Nations. They doubted not, but that, without much difficulty, he might become *Sigonius, l.*
 a Sharer in it; and he resolved to follow their Advice, and to order his Affairs with *13.*
 as much Foresight and Cunning as possible. With *Atius*, it seems, he tampered; *Baronius, l.*
 the report going, that by his encouragement it was that he cast in his Head to ruin *A.*
 the Empire. *Theodorich*, King of the *Goths* in *Gall*, he endeavoured to get to his
 Party; encouraging him with hopes to share the Provinces betwixt them. To *Val-*
entinian himself he sent his Ambassadors; and offered his Service for chastising of
 the *Goths*, and restoring the *Roman* Interest in *Gall* and *Spain*. And, having got
 together a vast Army of such Northern Nations as, by the power, or terror of his
 Arms, he had under Obedience, he marched out of *Scythia*, and came into *Germa-*
 ny in the violence of Winter; where he resolved to stay no longer than till he could
 draw the Nations thereof to a Confederacy with him. Some he allured by expe-
 ctation of Booty; in others he excited or increased an Averseness to the Emperor:
 some were terrified by the numbers and power of his Forces; and it was not diffi-
 cult to dissuade them all from joyning with the *Romans*; having lately found, that
 the *Franks*, endeavouring to hinder the *Vandals* from entering *Gall*, had been defea-
 ted by them. With him then joyned the *Quadi*, *Suevi*, *Marcomanni*, *Heruli*, *Tur-*
cilingi or *Rugi*, *Burgundiones*, *Thuringi*, *Bructeri*, the *Saxons*, those inveterate E-
 nemies of the *Galls*; and such *Franks* as still retained their Abode in *Germany*. With
 them he passed the *Rhine*, and brake through the *Roman* Pale.

Attila pierces
 into *Germany*.

S E C T. VI.

*The Sixth Step to the Ruin of the Empire in the West.**From the Invasion of the Western Provinces by Attila, to the Death of Valentinian the Third.**The space of four Years.*

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1. **U**Pon a Muster are said to have been found, to the number of seven hundred thousand Men, of such as, either for fear of *Attila*, or desire of enriching themselves, had given their Names to this Expedition. Here was *Andarich*, the most valiant King of the *Gepide*; and *Walamir*, King of the *Ostrogoths*, more Noble than the King he served, in the Opinion of the Historian. Of the Nations but now mentioned, *Sidonius Apollinaris* enlargeth the Catalogue; adding the *Gelonus* to the *Rugus*, the *Scot* to the *Burgundian*, and the *Bellonotus*, *Neurus* and *Bastarna* to the rest. But though *Attila*, by these vast numbers, terrified the World, and put all the Parts of *Gall* into a pannick fear; yet there wanted not some answerable Conduct and Resolution in those that were concerned on the *Roman* Party: For, his Insolence and Cruelty had animated such against him, as had hopes so to order their matters, as not to be subject to his Malice and Anger. *Ætius* resolved to oppose him to the utmost; to be revenged upon whom, some conjecture, that he chose rather to invade *Gall*, whereas he might as easily have passed into *Italy*. And *Theodorich*, King of the Western *Goths*, was so sensible of his Interest, as not to endanger what he and his Predecessors had already siezed in *Gall* and *Spain*: and therefore, though several bitter Conflicts had happened betwixt him and *Ætius*, and much Loss on both sides; yet he easily harkened to him, when he moved him to joyn against the common Enemy, or the Enemy of Mankind; and to carry on the War against him on equal Terms. And they so bestirred themselves, that, to the Forces of the Empire and the *Visigoths* several other Nations were perswaded to give their Assistance; as the *Alani* and *Suevi*, that had settled in *Spain*; and the *Franks*, that, by this time, had got good footing in the North-Eastern Parts of *Gall*.

A. D.

451.

Carm. 7. p. 318;

ges in
with Fire
sword.

nce relie-

2. But, in the mean time *Attila* took his scope in *Gall*, and raged with Fire and Sword against all sorts of persons and places; of which, not very many escaped his Rage. In *Germania Secunda*, *Tungri* and *Cologne* suffered much: In *Belgica Prima* he took and burnt the City of *Metz*; in *Belgica Secunda*, the *Atrebat*es grievously suffered. And, from them, he proceeded into *Senonia*, and so far, till he came to *Orleance*; which refusing to yield, he resolved, with all sorts of Warlike Attempts, to bring to subjection; but the Piety and Endeavours of *Anianus*, their Bishop, is said so far to have assisted them, as to escape his Hands; for *Ætius* came in timely to their Relief, together with *Theodorich*, and *Thorismund*, his Son, who obliged *Attila* to raise his Siege, and be gone; though, from *Sidonius Apollinaris*, who once had thoughts of writing the History of this War (being put upon it by *Prosper*, the Bishop of this City, and Successor of *Anianus*) it appears, that *Attila* brake into it, as well as besieged it; yet proceeded not so far as to plunder it: But, being obliged to quit the place, he was much disturbed in his mind thereat; and, understanding that there were Plains called *Campi Catalaunici* not far off, he marched thither; resolving, if he could, to provoke *Ætius* to fight, whom he little doubted but to overcome by his Numbers. And *Ætius* was not backward; but, with the *Italian* Forces, and Confederates, soon presented himself for a bloody Battel.

3. *Attila* is said before the Battel to have called together his Soothsayers and Diviners to consult them about the success, and received in answer, that he should lose the

Lib. 8. Ep. 15.
Aurelianensis
urbis obsidio,
oppugnatio, i. e.
ruptio nec di-
reptio, &c.

Sect. 6.

the day, but his Enemies, withal, their principal Captain; which though he did not well like, yet presuming that *Ætius* would be killed, he thought he should be no loser; such esteem he had of his Conduct, and low thoughts of the other Captains. A Battel being then resolv'd on, all the Morning was spent in ordering the Armies on both sides, so great was their number. *Attila* ranging all the Carriages he had by the side of a Mountain, made a kind of Rampart, where he bestowed the Women and Baggage, and divided his Army into three Battalions, placing himself with his *Scythians* and *Huns* in the middle. On his Right Hand stood *Ardarich*, King of the *Gepide*, and many others, in whom he confided; and of the Left Wing he gave charge to *Audarich*, *Theodomit*, and *Valomir*, Kings of the *Goths*. *Ætius* was some time in suspense what to do, because he doubted of the constancy of *Sanguibanus*, King of the *Alans*, who had some thoughts of going over to *Attila*, upon report, that he would agree with him, and redeliver a City he had taken from him. In conclusion, he also made a threefold Division of his Forces, in the middle of which he placed *Sanguibanus*, and both in the Front and Rear, the most valiant of the *Roman* Legions, that the rest thereby might be obliged to fight. The Right Wing he committed to *Theodorich* and his Son, that they might grapple with the *Gepide*, a Warlike Nation, taking to himself the Conduct of the Left.

The memorable Battel in the Campi Catalaunici.

4. Things thus appointed, began one of the most cruel and bloody Battels that ever were fought, though otherwise remarkable for the Flower of so many Nations gathered into two Bodies. The beginning of the Contest was to gain a little Hill situate betwixt the Armies, which would afford a great advantage to those that should fight from the upper Ground. *Attila* had privily conveyed a party to rise on it, who were encountred by *Thorismond*, the Son of *Theodorich*, whom with his *Goths* and *Spaniards*, *Ætius* had ordered to make himself Master of it. These began the Fight, and were relieved by their Friends on both sides, who stood it out from Midnight to Midnight with great Animosity and Resolution, few observing any thing but only intent upon the Slaughter of their Enemies; so that the particular accidents of the Battel are little known, the multitude being so great, that as Historians write, it was impossible to make out the several parties, and distinguish them. Yet some, they say, observed how a certain Ditch, near the place where the greatest Slaughter was made, was filled to the Brim with Blood, which is reported also to have overflown the Fields in such a measure, that the dead Bodies floated in it: an extravagant report. But the most moderate is, that a little Rivulet was exceedingly raised by the Goar that strained down into it, and increased its current to such a height, that it carried down the dead Bodies. Great indeed was the number of the slain; for none retired, or betook themselves to sudden flight: so that some reckon above two hundred thousand; and the most moderate opinion allows of one hundred and eighty; such indignation possessed both parties; the *Barbarians*, that the *Romans* had so long a time held their Dominion; and the *Romans*, that the *Barbarians*, so often defeated and repulsed, should commit such insolence against the Empire.

Attila worsted.

5. Although neither Party yielded, but were parted by the inconvenience of a dark night, and the *Romans* lost *Theodorich*, King of the *Goths*; yet had the *Barbarians* the worst of it, whom *Attila* caused to retreat in the best order he could, and fortified himself in the Rampart he had formerly made. *Ætius*, now Master of the Field, took such view as the obscurity of the Night would suffer, that he might in the best manner he could, post his Men, lest the Enemy should take any advantage; for he was not certain whether in all parts he was victorious, and so passed the night in ignorance, as to the death of *Theodorich*. But the Day-light manifested his success; and *Attila*, sensible of his loss, contained himself within his Fortifications, while *Ætius* his Men took the plunder of the Camp. *Thorismond* perceiving his Father to be slain was so enraged, that he resolved presently to attack *Attila*, and revenge his death, of which the *Barbarian* having notice, it is said, heaped together a company of Saddles and upon them resolved to burn himself, when the *Goths* should endanger him, rather chusing such a resolute death, than to conclude his power over so many Nations by the Catastrophe of an ignominious Captivity. But *Ætius* knowing the ambition and present strength of the *Goths*, feared lest after the utter overthrow of *Attila* they should turn their force upon the Empire, which was but in bad case to defend itself, and therefore he thought it Policy to let him escape at present, that by him the *Goths* and *Franks* might be awed, and diverted from all Attempts pernicious to the *Roman* Interest.

A.D.

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Procopius, Justinian, Paulus Diaconus, &c.

A. 6.

6. He advised *Thorismond*, as one that bore him good will, to hasten into *Spain*, and there take possession of his Father's Kingdom, lest any cross accident should intervene to the disadvantage of his Title. He put him in mind of what danger he was in from his Neighbours, the *Atani* and *Suevi*; and that having secured first all things at home, as a prudent Man must necessarily do, he might afterward find an opportunity to shew his filial piety in revenging his Father's death; an affection by all means to be cherished. *Thorismond* approved of his counsel, and departed with speed to take possession of his Father's Dominions, as well in *Gall*, as *Spain*; and *Aetius* suffered *Attila* to escape. Thus was accomplished the means which conduced to an effect quite contrary to the end designed by *Aetius*, whereby we may see, that Policy and Felicity are things that are often severed, both by reason of the weakness of Man's Intellectuals, and the vicissitude of humane Affairs. *Aetius* having obtain'd so great a Victory (which as some others write, procured the death of one hundred and sixty two thousand Men, besides ninety thousand *Gepide* and *Franks*, who fell one upon another and perished the night preceeding the Battel) and thereby having secured all that the *Romans* held in *Gall*, as also what *Attila* had invaded, and left the *Franks* and *Burgundians* quiet and peaceable, hastened to *Rome*, where *Valentinian* the Emperor now abode, expecting the event of the Battel. He entred in great triumph, and with incredible joy of the Spectators, who beheld him as their Patron and Protector from those dangers wherein all *Italy* was very near to be overwhelmed. But within a while *Valentinian* began to be jealous of him, imagining he had a design to make himself Emperor, and that he held intelligence with *Attila*, because he had not utterly destroyed him, as he might have done after the Battel; and the suggestion grew so high, that it proved the ruine of them both; we shall see in due time, *Attila* being reserved for a scourge, and further vengeance upon *Italy*, departed into *Illyricum*.

A. D.

451.

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m of

Illyricum.

7. *Valentinian*, as by his Arms he rescued his Subjects of *Gall* out of the Hands of the Barbarous *Huns*, so by his Pen took care for settling the matters of those who in *Africa* had been harrassed by the *Vanals*. Besides other Acts of Grace he gave order to *Firminus* the *Præfect*, that the Lands holden of him should be taken from those who had intruded into them, and bestowed on the indigent persons that had most suffered in the War, particularly the Lands belonging to Bakers, the Rights of the City of *Rome* always saved entire. In the East the Emperor *Martian* took the like care for securing the Estates of such as had procured any Fiscal Ground or Buildings, either by Donation of the Prince, purchase, or any other way. Provided they paid the Canonical imposition; by an Edict

Novell. 12. c. 12.
12. c. 12. c. 12.
12. c. 12. c. 12.
12. c. 12. c. 12.

Novell. 12. c. 12.
12. c. 12. c. 12.
12. c. 12. c. 12.

to *Palladius*, *Præfect* of the *Ægypt* he returned the Possessions to them in such manner that the Fiscal Dues being diminished, they might leave them to their Homes, and use of them as they thought convenient.

8. In the CCCLXI Year of our Lord, *Marcianus* and *Sporarius* had the Title and Dignity of Consuls. *Attila* was retired into *Pannonia*; and some say, would have attempted something against the Eastern Empire, if he had not been repulsed by the Arms of *Martian* who managing his matters with great prudence, had made peace with *Persia*, and in his Treaties still got ground of that Kingdom. *Pannonia* was now become the Seat of the *Huns*, and part of it received a new name of *Hungaria* from them, and the *Garius Sabellius* believes, who joyned their Arms

A. D.

452.

Decuriani
& Sporatio
c. 12.

Scythia.

with that of *Attila*, some say, thence returned into *Scythia*, his own Country, where he suffered at his last Defeat, and boiled with rage, that he should be worsted. He resolved to make another Attempt, and try once more his fortune, and that should be for a much fairer prize. He resolved to invade *Italy*, which abounded more than other Provinces with all good things; and where there were no *Goths*, *Alans*, *Burgundians*, nor *Franks* confederate with the *Romans* to oppose him; only *Valentinian* his power, to whom he bore no small a Grudge, as having hindered him not only from subduing the *Goths*, but caused him to miscarry in *Gall* in the late *Catalaunian* Battel. He raised an Army out of the same Northern Nations bigger than ever, animating them to the Expedition by hope of great Booty to be gotten. The Rumor of his intentions coming into *Italy*, a second, but more considerable part of that Tragical Fear and Trembling which had happened at the Expeditions of *Alarich* and *Radaaisus* seemed to be acted. For as by them they had had experience of the sad effects of such invasions, so they could not but apprehend greater from this, wherein a great number of *Barbarians* would be employed; and a Captain more fierce and savage than any ever heard of, who delighted to waste and destroy Mankind, as destinated particularly thereto by God himself, no otherwise

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die Italy.

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n is seized
great re-

Sect. 5.

otherwise than as his Scourge. Now again also Stories of Prodigies were multiplied, and in every Man's Mouth; particularly a Report went of three great Stones fallen from Heaven; besides, there was a great Dearth, and that, as is usual, followed by a vehement Pestilence; things that carry dread enough along with them, though accompanied by no other mischiefs.

A. D.

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Thence the original of Venice to be fetched.

9. The expectation was, that *Attila* would make his passage by *Venetia*; and therefore the Inhabitants of that Quarter were seized with the greatest terror, as those who must abide the first violence of the Storm. Seeking about for shelter, they retired into those little Islands that lie in the Sea, at no great distance from Land, imagining that he would not take notice of them, but pass on his way toward *Rome*. These, after the occasion was over, they found so agreeable, that what they were driven upon by necessity, they made choice of for convenience, and united themselves into one City, which after the name of the Province they called *Venetia*, now *Venice*, which increasing in Wealth and Reputation for many Ages, is at this day that most Glorious and Virgin-Commonwealth, which being the Lady and Mistress of the Country adjoining (*Padua*, her old Mother passing the time of her extreme Age in her tuition,) hath equalled the length of her Arms with those of the Mediterranean, and thereby grappled with the most churlish and robust Ruffian of her time, now and then soundly buffeting him, and ever keeping him at distance, to the grand reputation of her strength, which conjoined with her Beauty and Virginity, advanceth her above all comparison, both in reference to past and present times, and prevents all expectation of Competition for the future. This of all other Powers and Dominions in the World, is the true Off-spring and Remainder of the *Roman Empire*: not any other is now to be found, but what was either out of the Pale of the Empire, or if erected within a Province thereof, hath proceeded and taken its original from the Northern Barbarous Nations. But the Inhabitants of *Venetia* were Roman Citizens, who uniting themselves in this Common-wealth, never changed their condition, neither underwent any change of Propriety, as all others have done. But of *Venice*, God willing, hereafter, in the particular History of that Common-wealth.

10. *Attila*, as soon as the Season permitted, advanced into *Italy* with a vast Army, destroying all things that were subject to Fire and Sword. *Valentinian* was not idle in the mean time, but took what order he might for defence of the Borders and Cities, by assistance of the *Gothick* Nations, commanded by two Officers, called *Alarich* and *Anthala*. But *Attila* proceeded and sat down before *Aquileia* the Metropolis of *Venetia*, seated on the point, or tongue, as *Forndes* writes, of the *Adriatick* Sea, formerly a Latine Colony, designed for the protection of the Borders of *Italy*, from the Insults of *Barbarians*. Having refused to yield at his imperious Demand, he begirt it round, and resolved to carry it by storm, but found such vigorous resistance, as both frustrated his expectation, and excited his Choler. The Siege of *Aquileia* hath been much talked of; but little can be found of the circumstances thereof. *Forndes* tells us, that the *Hun* having for a long time besieged it, but to no purpose, the *Roman* Soldiers so valiantly defended it, when his Army was now ready to mutiny, and to pack up and be gone, walked about the Walls, musing and considering with himself what to do; when he perceived some Storks which built on the tops of Houses in the City, to bring away their young ones out of the place, and contrary to their manner to carry them out into the Country. Considering all circumstances, he gave notice of it to his Men, and bade them observe how these Birds foreseeing what was to come, and that the City would be destroyed, forsook it in such imminent danger. Hereby he inflamed their minds with a desire of taking it, and being once more resolved to make trial, moved all sorts of Engines to the Walls, in the Attempt took it, plundered, and so cruelly wasted it, that scarcely did remain any Footsteps of it to be seen. So writes *Forndes* and ancienter Historians; but as to the destruction of the City, so as no Footsteps of it remained, *Baronius* gives a good reason why he cannot assent; for that the Inhabitants which had deserted the place, came back again when the Storm was over, as appears from an Epistle of *Leo*, the Bishop of *Rome*, to *Niceas*, or *Nicetas*, the Bishop of *Aquileia*, wherein he answers certain matters, about which he consulted him, particularly what was to be done with those Women who had married other Men since the captivity of their Husbands, who now received their liberty, and returned home.

De Rebus Gallicis, c. 4. 2.

Ad. h. An.

11. The *Huns* not satisfied with the destruction of *Aquileia*, raged through the other Quarters of *Venetia*, which terrified with that Example, made but weak resistance;

Takes *Aquileia*.

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resistance; and so *Concordia*, *Altinum*, *Optergium*, *Patavium*, and *Ateste*, all noble Towns, easily fell into the Hands of *Attila*, the Inhabitants withdrawing themselves, as they could, into the Islands. He burnt and destroyed them all as much as lay in his power, and now having done his Work here, did not pass on directly to the *Padus* to do the same by *Rome*, as he bragged he would; possibly afraid of *Ætius*; but turning to the Right Hand, gave occasion to other Maritime Towns, as *Tarvisium*, *Vicetia*, *Verona*, *Mantua*, *Cremona*, *Brixia*, and *Bergomum* not to rejoyce above their Fellows; wholly intent on plunder, and the Destruction of Cities, those he levelled with the Ground; and then passing over *Adna*, entred *Liguria*; where he made the same Havock and Desolation. *Taurinum*, *Ticinum* and *Mediolanum*, besides others, felt the sad effects of his fury, the Citizens flying, as they had opportunity, to the Mountains, and other places difficult of access. *Suidas* tells a Story of him, how, when he was at *Milan*, taking notice, that the *Roman* Emperors were painted sitting upon Golden Thrones; and the *Scythians* at their Feet, he caused his own Picture to be made sitting upon a Throne, and the Emperors carrying Sacks upon their Backs, and out of them pouring down Gold at his Feet. Towards Winter he crossed *Padus*, and to shew that he continued the same Man still, laid waste the Cities and Country of *Æmia*, and now went to wreck *Placentia*, *Parma* and other places. All that Tract lying betwixt the *Alpes* and the *Appennine* being thus in its Ashes, the Tyrant was afterward restrained, and the *Leviathan* had an Hook put into his Nose by the Almighty, who had mercy on the remaining parts of *Italy*.

12. How this was effected there are various Reports. It's said that *Ætius* was ready at the Borders of *Æmia* to oppose him, with a very formidable Army, and equal in strength to that of his. Others say (so doth *Fornandes*) that his Officers about him dissuaded him from attempting any thing against *Rome* itself, objecting to him the example of *Alarich*, King of the *Visigoths*, who survived not long the captivity of that City. That while he fluctuated in an uncertain Resolution what to do, *Leo*, the Bishop of *Rome*, sent by *Valentinian*, the Emperor, came on an Embassy to him, and found him at the place where was a passage over the River *Mincius*. That presently after quitting his rage, he returned whence he came beyond the *Danube*, and departed with promise of peace, withal denouncing and threatening, that he would more heavily afflict *Italy* than ever, except they would send to him *Honoris*, the Sister of *Valentinian*, and Daughter of *Placidia Augusta*. It was reported, that *Honoris*, for the Repute and Reverence of the Court, being kept up close by her Brothers Command, sent an Eunuch privily to him; and invited him to make war against him, that she might make advantage thereof: a very foul Act to procure liberty to her Lust by a publick mischief, as *Fornandes* justly censures it. With the Relation of *Fornandes* weeth that which is made by *Paulus Diaconus* in most particulars. But to that concerning *Leo* he adds, that the Attendants of *Attila* demanding the reason why he was so easily drawn from his purpose by the perswasion of the Bishop, he answered, that he saw one stand by him in Sacerdotal Habit, of great Majesty, and venerable Aspect, who with a drawn Sword threatened him with death, if he did not comply with the Bishop's Requests.

13. Had the Writings of *Priscus*, a Rhetorician, come to our hands, we might have had good intelligence concerning the Wars of *Attila*; for he, as *Evagrius* tells us, in a peculiar Treatise declared at large, and with a flowing style, how he invaded both East and West, how many, and how great Cities he won, and how he behaved himself to the end of his days, which some say was brought about by a Knife, and the Hand of a Woman; at the procurement of *Ætius*. But however, gone the Tyrant is back into *Scythia*, and we may hear more yet of him before the time of his death; though these Writers tell those things as happening speedily one after another. Now we must see what further happened in East and West in the Year of his Invasion, of Civil Government. We find at *Constantinople* two Advocates or Patrons of the Treasury or *Fiscus* made instead of one, to whom *Martian* by an Edict directed to *Palladius* the Prefect, gives such place and Honour as formerly the sole Advocate had enjoyed; for where one Dignity is conferred on two persons, it is to be understood to be conferred in *solidum*. This same Year he published another Law, directed to *Asporatius* the Consul, and that for Reformation of the Consulship itself, and restoring it to its pristine Honour. But he forbids the casting away of Money amongst the multitude according to the old custom, assigning that expence to the repairing of *Aqueducts* of the City of *Constantinople*,

Lib. 1. c. 17.

L. 10. De Advocatis Divorum Judiciorum, Cod. Just. lib. 2. tit. 7. De 15. Cal. Jul. L. 2. De Consulibus, &c. Cod. Just. lib. 12. tit. 3.

Sect. 6. to the value of an hundred pounds of Gold. This Liberty thus taken away, *Fu-*
stinian afterward restored to the Consuls, but confined to a certain Sum, and to
 seven times in the year. So did *Martian* employ himself at *Constantinople*. *Va-*
lentinian in the West had sufficient cause to be diverted from making of Laws,
 when the property of those who were to be governed by them lay in so extreme
 hazard. Yet some we find of this Year; as one of Religious Concernment, and
 another relating to the Incouragement of the *Suavi* of *Rome*, that that City
 might be the better supplied with Provisions."

14. The Year of our Lord CCCCLIII is Characterised by the Consulship
 of *Opilio* and *Vincomalus*, and by little else that we can find of Civil Government. But
 we cannot but rejoyce to think how the cruel Tyrant *Attila* being now with-
 drawn, the poor Inhabitants of the several places he had harrassed, began to peep
 out of their Retirements, to see if all was clear, and when thereof satisfied, to
 return to their former Seats, and to set upon the repairing of their former Houses;
 it being seldom seen, that the Love of the Native Soil, though in greatest deso-
 lation, quitteth any. Yet so great was the desolation, that some Towns were never
 repaired; but amends was made by that confluence of persons into the Islands,
 which gave original, as we said, to the City of *Venice*. *Attila* was retired into
 his own Country; but where-ever his Body was, his mind was not at rest, but as
 repenting of that ease he had given the Empire, and not enduring to be out of
 War, he sent to the Emperor *Martian* in a menacing manner, upbraiding him
 with not paying what formerly *Theodosius* had engaged; and for being more in-
 humane to his Enemies than he was wont. Though he did this, yet *Formandes* tells
 us, being crafty and designing, he threatned one place, and fell foul upon another,
 resolving to turn the fury of his Arms against the *Visigoths*. But he had not the
 success he had formerly found against the *Romans*. Returning into *Gall* by other
 ways than he had done formerly, he resolved to subdue part of the *Alans*, who
 were seated beyond *Ligetis*, or the *Loire*, by a change of the face of the War to
 appear more terrible. He moved against them by *Dacia* and *Pannonia*, which
 were then possessed by the *Huns*, with divers other Nations subject to them. But
Thorismund, King of the *Visigoths*, with no less subtilty smelling out his fraud,
 made haste, and was with the *Alans* before his coming, opposed himself against
 his Attempts, and engaging in a Battel much what after the same method with
 that which had been fought in the *Catalaunian* Plains, prevented him of his hoped
 for Victory, and caused him to flie, without any triumph, back into his own Quar-
 ter.

15. The Year CCCCLIII had for Consuls *Stadius* in the East, and *A-*
rius again in the West. With *Atius*, *Thorismund*, King of the *Goths*, had a quar-
 rel; and, as is elsewhere related, for that having made an agreement with *Attila* he had
 not assisted him in his late distress. He broke out into Hostility against the *Romans*,
 and laid Siege to *Arles*, intending to starve them out, whom by force he had in vain
 attempted to bring under. *Atius*, as soon as he had notice, was presently at hand
 with such Forces as he had in readiness, and a Fight there followed betwixt them;
 but he was not able to raise the Siege. At this time *Ferreolus* was *Præfectus Præ-*
torio of *Gall*, a person, for his Nobility, excellent Conduct, and singular Human-
 ity, in great esteem, as well with *Goths* as others. He went to *Thorismund*, in-
 vited him to Dinner, and by an Entertainment removed him from the Gates of
Arles, whom *Atius* could not by Battel. For so *Sidonius Apollinaris* tells him in an
 Epistle, wherein he begs his excuse for not having related at full in some Work
 wherein he had employed his pains, the great performance of his Ancestors and his
 own Actions. It seems this *Ferreolus* went afterwards into Orders; and therefore
Sidonius partly engages himself to joyn the History of his Life to those of Bishops,
 and Ecclesiastical Persons: but in this Epistle, besides the removing of *Thorismund*
 from *Arles*, he confesseth he had passed by how *Gall* had been governed by him
 when most in safety; how *Attila*, the Emperor of *Rhine*; *Thorismund*, the Guest of
Rhane, and *Atius*, the Reliever of *Agens* or *Loire* had been sustain'd by the Salu-
 brity of his Dispositions, (as he words it, in his degenerated *Roman* Phrase) and
 for his great prudence and foresight the Provincials, with Spontaneous Noths, and
 greatest Accent of Applause, made him his Clarior of Government, for he held
 the Reins of *Gall* in such a manner, that the Possessor exhausted under a Tributary
 Yolk, was relieved. He confesses further, that he had omitted how the most
 fierce King of *Goths* had by his sweet, grand, argute and extraordinary speech
 and conversation been made compliant. He had told him before that, intending
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Thorismund,
 King of the
Goths, besieges
Arles, and is
 persuaded to
 remove,

Lib. 7. Ep. 1
Sidonius l
 olo suo Jul
 Non tamen
 scribit Pa
 passim sole
 piscopis.

t. 6. a publick salutation to him, he had considered not what he had been, but what he was at present.

6. *Attila* being retired home now gave up himself to Idleness and Luxury. The History, going under the name of *Paulus Diaconus*, relates, that being returned into his own Country, to the many Wives he had already, he added a Virgin very beautiful, called *Indiſto*. And at the Wedding making an extraordinary Feast, he drunk more Wine than ever he had done before at once, and lying upon his Back, was suffocated with a great effusion of Blood out of his Nose, to which he had been formerly subject. He adds, that the same night *Martian* was in a dream told from God, that the Bow of *Attila* was broken. *Fornandes*, from *Priscus* the Historian calleth the Maid by the name of *Ildico*, adds; that she was very beautiful, and that after innumerable other Wives, as the custom of that Nation was, he took her also in Marriage. That being exceedingly merry at the Wedding, and now heavy with Wine and Sleep, as he lay upon his Back, abundance of Blood, which was wont to issue out of his Nose, being hindred of passage, poured down it self into his Throat, and choaked him. So was a King glorious for War brought to a despicable end by Drunkenness. The next morning when it grew late, and his Attendants heard nothing of him, suspecting all was not well, after great noise they broke open the door, and found *Attila* dead of bleeding, without any Wound, and the Girl weeping under a Veil with a dejected countenance. Then according to the manner of their Funerals did they cut off part of their Hair, and with Gashes made their ugly Faces still more deformed, that so great a Warrior might be lamented with the Blood of Man, and not with Womanish Complaints and Tears. Concerning *Martian* who was now solicitous concerning *Attila*, his being certified in a Dream that his Bow was broken. *Fornandes* also confirmeth it from *Priscus*, who said he affirmed it by true attestation. For so terrible was *Attila* to the great powers upon earth, that his Death was esteemed as a great Gift of God.

17. Having acquainted us with thus much out of *Priscus*, he thinks fit not to omit the Solemnity of *Attila* his Funeral, but give an account of many things performed at it in few words. The Body was in the middle of the Camp, placed within a Silken Tent; and then was presented an admirable Show, solemnly exhibited. For out of the whole Nation of the *Huns* most choice Horsemen were employed to make their courses after the manner of the *Circensian* Exercises in that place; and compassing it about as they went, they chanted in a Funeral Song the Acts of the deceased after this manner: *Attila* the greatest and most excellent King of the *Huns*, the Son of *Mundzuch*, Lord of most valiant Nations, who possessed of such power as before him was not heard of, alone held the *Scythian* and *German* Kingdoms, put to a fright both the Empires of the *Roman* City, by taking their Towns; and lest the rest should be made a prey, being appeased, received of them a yearly Tribute; who, when in a course of felicity he had done all those things, died, not by the hand of an Enemy, not through treachery of his own Men, but merry and in jollity, his Nation at the same time being safe, without any sense of pain. Who will therefore call that an *Exit*, which no Man accounts fit to be revenged? After he was bewailed with such Lamentations, they feasted over the Herse in a solemn manner, which they called *Strava*, and mixing things that were contrary together, joyned joy and jollity with a Funeral Mourning; and at length by night the Body was secretly put into the earth. His Coffin they first enclosed with Gold, then with Silver, and then upon that laid Iron, thereby to shew, that the most potent King had all these Metals in his power: Iron, by which he conquered Nations; and Gold and Silver, for that he had obtained the Wealth of both the Empires. They added Arms got by slaughter of Enemies, Trappings and Ornaments, precious by reason of the lustre of their Gems, and divers other sorts of rarities with which Courts are wont to be adorned. And that humane curiosity might not approach these so many and so great Riches, by a detestable sort of reward they killed such as were employed in the Interment, and a sudden death happened to the Buriers with him whom they buried.

18. Such is the account we have from *Fornandes*, concerning the death of *Attila*, from whose Relation *Marcellinus* differs, in that he writes, that he was killed by a Woman: and the Story being told of the new married Woman being found with him in the Room might raise a suspicion. But he being dead, a dissension arose amongst his numerous (some term them innumerable) and ambitious Sons about the Succession; and while all imprudently desired to reign, all of them

Sect. 6. miscarried in the Attempt; for Kingdoms and Empires are wont to be disordered more by plenty than scarcity of Successors. They went about to divide their Father's Dominions by lot, so as all might share, not only his Hereditary Countries, but the conquered Nations. *Andarich*, King of the *Gepida*, perceiving this, and disdaining, that so many Countries should be subjected to such wretched Slavery, first rose up against the Sons of *Attila*, and shook off the Yoke from his own Neck, whose example was of such force, that the other Nations encouraged by his success, asserted and procured their former liberty. He with his Associates gave Battel to the *Huns*, and their Subjects in *Pannonia*, near to the River *Notad*. *Forandes* esteems it a sight to be admired, to have seen the furious *Goths* fighting with his Sword, the *Gepida* breaking all his Lances in the Wounds of his own Men, the *Sueve* to presume upon his Feet, and the *Hun* upon his Arrow; the *Alas* to fight with heavy, and the *Hernulus* with light Armour. After terrible Conflicts an unexpected Victory happened to the *Gepida*. For the Sword of *Andarich* and his Associates destroyed near thirty thousand of the *Huns*, and their Assistants. In the Battel perished *Ellac*, the eldest Son of *Attila*, whom his Father so far loved more than the rest, that he preferred him above them all in the Kingdom. But his fortune was not answerable to his Father's Wishes; yet after great Slaughter made of his Enemies, he died so valiantly, that if his Father had been living, he must have wished for so glorious an end. The other Brothers after his death were driven towards the Shore of the Sea of *Pontus*, where formerly the *Goths* had inhabited.

His Sons driven to the Shoar of *Pontus*.

Their Possessions shared.

19. Thus did the *Huns* fly and retire, who lately, as was thought, would put all other Nations to flight; so pernicious a thing is Dissention. The People lately subject to them, now lifted up their Heads with joyful expectation of freedom, and many sending their Messengers to the Emperor *Martian*, he kindly received them, and assigned them places to inhabit. For the *Gepida* having by force possessed themselves of the Seats of the *Huns*, as Conquerors held all the Coasts of *Dacia*, and required nothing farther of the Empire but Friendship, and such things as were due to valiant Men: which the Emperor willingly granted, and this became a custom to the days of *Forandes*. The *Goths* perceiving that the *Gepida* had seized on the Seats of the *Huns*, and that the *Huns* were retired to the Quarter that they had formerly possessed, resolved rather to use fair means, and desire a Country from the Empire, than with danger to invade the Territories of other Nations by force, and so received *Pannonia*, extending out in a long Plain, having on the East *Mæsia superior*; on the South *Dalmatia*; on the West *Noricum*; and the *Danube* on the North; all this Tract extending from *Sirmium* to *Vindibona*. The *Sauromata*, or *Sarmata*, the *Cemendri* and some of the *Huns* late down in that part of *Illyricum* near the Castle *Martena*. The *Sciri*, the *Satagarii*, and the rest of the *Alans*, with *Candax* their Captain received *Scythia* the less, and *Mæsia inferior* to inhabit. The *Rugi* and some other sorts of People went to inhabit at *Bioximeta* and *Scandiopolis*. *Hernac*, the younger Son of *Attila* chose for himself and his Followers a place in the utmost of the lesser *Scythia*, *Emmedax* and *Uzindur* his Kinsmen in *Dacia Ripensis*; *Uto* and *Iscalmus*, who formerly held it, and many of the *Huns* falling into *Romania*. There were other *Goths* called *Minores*, yet a vast People, with their Bishop and Primate *Pulphilas*, who is said, to have instructed them in Learning, and those in the days of *Forandes* held that part of *Mæsia* called *Eucopolitana*. This Narration of his concerning the fixing of these several Nations is very much to be regarded, and which will receive illustration from what we shall say afterwards concerning the original of the *Goths*.

Forandes c. 5.

This year fatal to other great Persons, as *Thorismund*.

Atius.

20. As this Year was fatal to *Attila*, so to some other great Princes; for now died *Thorismund*, King of the *Goths*, who was killed by a Dependant, as he was letting Blood. And to these some add the death of *Pulcheria Augusta*. To be sure it was fatal to *Ætius* the Consul, and consequently to the Empire it self; for so writes *Marcellinus*, that now *Ætius*, the Patritian, the great preserver of the Western Empire, and formerly the terror of *Attila*, was together with *Boetius*, his Friend, slain in the Palace by *Valentinian* the Emperor, and with him fell the Western Empire, which hitherto, saith he, it hath not been possible to restore. This he tells in short, of which *Procopius* gives a larger account, as to the occasion and motives. There was amongst the Senators one *Maximus*, a Roman, of the posterity of that *Maximus* who usurped, and was overthrown by *Theodosius* the Great, the day of which Victory was kept holy in memory of it, in the time of the Historian. He had a Wife which excelled in prudence, and also in Beauty; and with her the Emperor

Hist. Vand. lib. 29

6. peror *Valentinian* fell desperately in love. Not knowing how otherwise to enjoy her he bethought himself of this wretched course. He sent for *Maximus* to Court, and beating him at Dice, received his Ring from him as a Pawn for the Money he had lost. This he sends privately to his Wife, as a token that she should come and give a visit to *Eudoxia* the Empress, and she not doubting any thing, came in her Litter, but having entred the Palace, was seised by some Men that were set on purpose, and conveyed into a private Apartment, where *Valentinian* by force had his will of her. Home she returned, and by tears and all other expressions of sorrow testified how much she resented the injury, and cursed *Maximus* for giving occasion to such mischief. With this he was enraged, and devised how he might procure the destruction of the Emperor. He dreaded *Ætius*, whom he knew to be so great a Captain, and had lately defeated *Attila*, and therefore thought it best first to remove him out of the way, in whom understanding Men placed their hope; and by assistance of the Eunuchs, who were his Friends, he perswaded *Valentinian*, that *Ætius* had a purpose to usurp. The Authority and Power of the Man procured the Emperor to admit of this Jealousie: and therefore he commanded him to be slain. When the Fact was done, some say by the Emperor's own hand, some say by others, he asked a certain *Roman* whether he had not done well to take him out of the way. He answered, that whether he had done well or ill he knew not: but this he knew, that he had cut off his Right Hand with his Left.

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21. This fatal Year was not concluded with these mischiefs. For in it did the *Vandals* from *Africk* exercise Pyracry, and made Depredations in *Sicily*. Several of the Provinces of the *East* were also grievously harrassed with Famine, and a Plague; particularly in both the *Phrygias*, in *Galatia*, *Cappadocia* and *Cilicia*, there was such want of Rain, that Men being destitute of Necessaries, had recourse to pestiferous and deadly food, which cast them into great Distempers; their Bodies swelled, and so excessive was their heat, that by great Inflammations they lost their sight, were seised with Coughs, and on the third day they died. *Evagrius* writes, that the Plague could no way be cured; but by the providence of God the Famine was allayed by Nourishment which fell out of the Air, as *Manna* of old did to the *Israelites*; and the year following the earth of it self brought forth abundantly. He adds, that not only *Palestine* was in this manner afflicted, but other heavy Calamities raged in many and almost infinite other Regions. Amongst these infinite other Regions are to be reckoned the Western and Northern Tracts, which otherwise appear to have been afflicted with Famine; and particularly the Country since called *Austria*, with the chief City, known at this day by the name of *Vienna*; but then, it's said, called *Fabiana*.

Famine
Silence.

Baron. ad l. 21.

Lib. 2. c. 6.

22. The Year of our Lord CCCCLV being by some stiled the Year of Vengeance, or Revenge, for reasons we shall shortly relate, was known by the eighth Consulship of *Valentinian*, and that of *Anthemius*, his Colleague. Now did the Designs of *Maximus* come to a ripeness, in way to his purposed Revenge. For having removed *Ætius*, who alone was able to prevent, or render invalid any Attempt; he then insinuated into the Servants and Dependants of that great Man, and perswaded them to revenge his undeserved death. Upon two of his Guard, known to posterity by the name of *Ostila* and *Transila*, his words had greatest operation, who laying their Trains as would best accomplish their business, fell upon him as he was making a speech from the Tribunal, in the *Campus Martius*; when he thought neither of conspiracy nor death; and having first dispatched *Heraclius*, an Eunuch, who valiantly interposed and endeavoured to save his Master, slew him in the place. Thus he is said to have perished in the thirtieth year of his Reign, and the thirty fifth of his Age, on the eighteenth day of *March*. During his Government, the Empire, which in the time of *Honorius* began much to decline, grew to be seised of a mortal Distemper. But this may be said in his behalf, that he was not unhappy in the Contest he had with the greatest *Helitor* and Enemy of these times, having by his Arms sometimes worsted *Attila*; and otherwhiles obliged him to pack up and be gone out of his Dominions. To be sure he was the last that may seem to have been an Emperor indeed, in whom true Imperial Majesty resided. For those that followed him in the *West* were Upstarts, Usurpers, or like Apparitions, that soon appeared, and soon vanished. Under them the Limbs of the Empire were torn in pieces one from another; and the Provinces were daily lost, and fell into the Hands of Barbarous Nations. And as with the Growth of the Empire good Letters had received increase, and were propagated; so they languished

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Valentin. A.
8. & Anthem.
mo Coss.

Sect. 6. guished together with it, and study being little regarded when life it self is to be preserved, dwindled at length into Barbarism and Ignorance. This is seen by that slender Account we have left us concerning the revolutions of the succeeding times.

A.
45

S E C T. VII.

*The Seventh Step to the Ruin of the Empire in the West.**Containing the Pangs and Expiring of the Empire of the West.**From the Death of Valentinian the Third to the deposing of Augustulus.**The Space of Twenty one Years.*Maximus the
Murderer, u-
surps.

1. **V**alentinian being dead, *Maximus*, the Contriver of his Ruine, easily advanced himself into his Seat; there being none indeed that could well oppose him. Being seated, he now considered how he might best establish himself. He thought it would contribute to his security, if he committed the trust of the Army to *Avitus*, a person famous for his well discharged Employments, who at present was *Præfectus Prætorio* in *Gall*. There was no Son or Brother of the deceased Emperor left to call in question his Title; but *Endoxia*, his Wife, was still alive, and he resolved by Marriage with her (his own Wife being lately dead) to gain reputation and vigor to it. Therefore did he, as both *Procopius* and *Evagrius* write, force her to take him for an Husband; and yet was he so captivated by her Arts, or his own affections, that, love arising sometimes it seems from policy, in the night, when they were in Bed, he told her all the Story of *Valentinian's* death, how it was contrived and brought to pass; and endeavoured to make her believe, that it was all designed and contrived out of his love to her person. She hated him before, as *Procopius* tells us, and was now enraged to find how he had caused her Lord and Husband to be murdered, and ascribed all the Villany to her, as the cause that principally moved him. No sooner was the Morning come, and she was out of Bed, but burning as much with desire of Revenge, as he did with Love, she sent away a Messenger to *Genferich*, then lying at *Carthage*, to let him understand, how her Husband the Emperor had been wickedly murdered, the Empire seized, and her own person in a manner captivated by a Traitor, and that he should act like himself, and the Ally of *Valentinian*, if he would come, and by his Arms vindicate the *Roman* Name and Majesty from so great Dishonour. The Message was very acceptable to *Genferich*, who had long desired to find out such an opportunity as was now offered to him, and glad he was, that *Theodosius* was dead, and so could not take the work out of his Hands, which he thought *Martian* would neglect, as having no such Relation to *Endoxia*.

*Procopi
Vandal
Evagri
c. 7.*

2. He rigged up his Fleet, put aboard his Men, and with all alacrity pursued his Voyage, such courage did the expectation of the rich Booty put into him. And he could not have come at a better time; for the Man he was to deal with, was as much now down in his spirits, as he himself was joyful and frolick. He had formerly lived at his ease, and in great affluence of all both conveniences and pleasures. *Maximus* had run through all sorts of Honours and Preferments below the Purple, and his Senatorian

St. 7.

is disqui-
in his

Senatorian Dignity, his great Estate accompanied with a good conscience and reputation, made his Nights possibly no less ease and pleasant than his days. But now his ease was disturbed by continual cares and perplexities about securing his ill gotten Dominion; his Counsellors, his Guards and Soldiers distracted him, and in vain he sought by night for that sleep and rest which should give some intermission to his anxieties. This is affirmed by *Sidonius Apollinaris*, in his answer to the Epistle of his Friend *Serranus*, wherein he had much extolled the felicity of this *Petronius Maximus* his Patron. In that answer he affirms, that he had heard one *Fulgentius*, a person of Questorian Dignity, relate, how he had often declared to him by his own Mouth how much he abhorred that Burthen of the Empire, which he had so ambitiously pulled upon his Shoulders, and how happy he esteemed the condition of *Damocles*, who had born the necessity of a Royal Estate, only during the length of one Dinner. Of this *Damocles* the Story is obvious, how being familiar with *Dionysius*, the Tyrant of *Syracuse*, he excessively and ignorantly was wont to extol the felicity at which his Friend and Patron had arrived. *Dionysius* asked him if he would sit down to Meat at his Table, and thereat in a plentiful Entertainment make an experiment both of the conveniences and inconveniences, which he so splendidly enjoyed. He consented, and joyfully sat down, accoutred in *Regalibus*, with costly and delicious Fare was he entertained, and served as a King in all respects, like some *Sardanapalus*; so rich was the Furniture of his Table, so great was the value of his Vessels he drank in, set out with Gems and Pearls, and so numerous and well habited his Attendance. But when he began to fall to his Victuals, his Stomach was quickly turned by a sight he beheld over his Head. There hung from the Roof of the Room a naked Sword in no stronger a bond than the Hair of an Horse, which put him in continual danger of having that Throat cut which should swallow the Meat, and procuring a false and uneasy passage for his delicate Viands. Now like another *Tantalus* he desired to remove from those pleasant things he could not enjoy, and by his prayers mixed with tears and sighs hardly obtained a dismissal from his Royal Delights, from which his Heels carried him with greater celerity and ease than they brought him thither. This Story *Sidonius* relates and philosophizeth in more apt words and expressions than usual upon that ticklish and uncertain, though specious condition of those Men who chuse to feed on Blood, before the Feast of a good conscience, and forsake their ease and quiet to attain the short and anxious pleasures of Usurpation.

A. D.

455.

*Sidonius Apol-
linarius, lib. 2.
c. 13.*

killed.

*Genferich
in Rome.*

3. In this plight was *Maximus* found, when *Genferich* with three hundred thousand (as some write improbably) of *Vandals* and *Moors* landed upon the Coast of *Rome*. His sudden and unexpected coming contributed to the consternation of the Usurper, and consequently to his own success, and the expedition of his Business. The City was absolutely surpris'd, the Inhabitants thereof being quite put out of all other methods of consultation, than how best every Man to shift for himself, into Mountains or other places difficult of access, or hard to be discovered. And *Maximus* himself would not be one Furlong behind them. He fled as well as the rest, destitute of all his Friends, whom some Senators, his Enemies, seeing to be alone, and without defence, were so bold as to take the advantage, and stone him; then being dragged all torn and bruised as he was, they sent his Body by one *Ursus*, a *Roman* Soldier, to be cast into *Tiber*. This happened about the twelfth of *June*, and some three days after *Genferich* entered the City, now fully expos'd to his lust and appetite. He had promised *Eudoxia* very fair things, in reference to moderation, and abstinence from all rapine and plunder. *Leo* the Bishop also with some of the Nobility met him at the Gate, and the better to move him, put him in mind how even *Attila*, a Pagan, had been perswaded to own the respect that was due to the Mistress of the World. But he was deaf to all charmings of this nature, and contrary to his faith given to *Eudoxia*, not only rifled the Imperial Treasure, but all that was excellent besides. The Statues and Tiles of *Jupiter Capitolinus* he made bold with, and he took away the Vessels of the Temple of *Jerusalem*, which *Titus* formerly had brought to *Rome*; and afterwards when *Africk* was recovered, were by *Belisarius* sent to *Constantinople*, and returned back to *Jerusalem* by order of *Justinian*. *Gregorius* writes, that the *Barbarian* being of inconstant behaviour, and little fidelity, set the City on fire. Others speak only of the burning of such things as were made for show and pleasure; some, that *Leo* meeting him in his way, perswaded him to abstain from Blood and Fire; yet he took away all the Wealth, except that of the three principal Churches, and led away many thousands of Prisoners into *Africk*.

Sect. 7.

Who carries
away prisoners
Eudoxia and
her two
Daughters.

Avitus made
Emperor in
Gall.

4. It's affirmed by others, that the plundering of *Rome* continued fourteen days; and several write, that most of the plunder was lost at Sea; though *Procopius* mentions it as a report that only that Ship which carried the Statues was sunk, and the other Vessels arrived safe with the *Vandals* in the Port of *Carthage*. But amongst other Prisoners, notwithstanding the faith given to her, he carried away *Eudoxia* the Empress, and her two Daughters *Eudocia* and *Placidia*, whereof *Eudocia* he married to his eldest Son *Honorich*; and *Placidia* became afterwards the Wife of *Olybrius*, a Noble Roman Senator, being by *Genferich* sent away with her Mother to *Constantinople*, at the desire of *Leo*, who succeeded *Martian* in the East. So *Procopius*, but *Evagrius* writes, that he sent *Placidia* the younger Daughter together with her Mother, and that with Royal Equipage to *Martian* himself, hoping thereby to mitigate his displeasure; for he was highly offended with the burning of *Rome*, and the ill usage of *Valentinian*'s Daughters: and that afterwards *Martian* gave *Placidia* in Marriage to *Olybrius*, a Noble Man, and Senator of *Rome*, who, when the City was taken, had fled to *Constantinople*, and to whom, some say, she had been formerly contracted. After the death of *Maximus* followed an *Inter-regnum* in the West for twenty eight days; and then was *Avitus* acclaimed Emperor in *Gall*, who having been by *Valentinian* preferred to the Dignity of *Præfectus Prætorio* of that District, was also lately by *Maximus* made *Magister Militum*, and at this time discharged the Office of an Ambassador in a Negotiation of Peace to *Theodorich*, King of the *Goths*, who, some write, having slain his Brother *Thorismund*, had seized on his Kingdom. By the assistance of the *Goths*, and especial procurement of *Theodorich*, he was promoted to the Purple. *Avitus* was a Man of excellent Qualifications, both as to War and Civil Matters; of great Nobility, an excellent Orator, as excellent a Lawyer, not unaccustomed to the Travels and Inconveniences of a Soldier. Being against his will, advanced to the supreme Honour, to the great joy of the Provincials of *Gall*, who promised themselves all good things from the Government of so brave a person, he applied himself to such Councils as might best conduce to the safety of the State. Particularly took order for defending the Quarters lying beyond the River *Ligeris*, against the IncurSIONS of the *Franks*, and those on the South side of the said River, or nearest to *Italy*, from the violence of the *Goths*. And by virtue of the League and Friendship contracted betwixt him and *Theodorich*, he committed that portion of *Spain* which as yet acknowledged obedience to the Empire; to be defended by him against the Attempts of *Riccar*, King of the *Suevi*. And so we quit this Year without any other observations, but that on the tenth of *July*, the same day that *Avitus* was inaugurated, happened so great an Earthquake in *Pannonia*, that therewith all the City *Saberia* was overwhelmed.

5. That follows which was the CCCCLVI of our Lord; and as the Chronicles of *Cassiodorus* and *Marcellinus* do mark it, had for Consuls one *Fohn* and *Varanes*, or *Varares*. But that *Avitus* the Emperor himself assumed this Title, we are sufficiently informed from the Panegyrick made to him by *Sidonius Apollinaris* in Verse, on New-years-day, and that in the very way of celebrating his Consulship. And *Baronius* puts himself out of doubt by producing an ancient Inscription, extant at *Rome* in the Church of *S. Agnes* in the *Numentane* Street. But so it might happen, that together with the Purple *Avitus* might also quit the Consulship. For *Cassiodorus* notes, that this Year he laid down the Imperial Dignity at *Placentia*, and that he ceased to be Emperor is no doubt at all; but as to the occasion of it there are various Reports. *Evagrius*, in short, saith he died of the Plague; *Nicephorus* by *Famine*; but *Gregory of Tours* writes it for truth, that living luxuriously, he was cast out by the Senators, and at *Placentia* was ordained Bishop of that City. That for all his deposing, having found that the Senate, still angry with him, designed to take away his life, he resolved with many rich offerings to take Sanctuary in the Church of *S. Julian*, a Martyr of the *Arverni* (whose Countryman that he was, *Gregory* saith, was most manifest) and dying in the way, was buried in the Town he calls *Brivatensis Mons* at the Feet of the said Martyr. Now some there are that fetch the Story a little higher. They tell us how *Avitus* having settled his Affairs in *Gall*, resolved to pass into *Italy*, and take possession of the Government of that Country to which he had a just Title, as well as to the other Members of the Western Empire. With the assistance of the *Goths* he passed the *Alpes*, went to *Rome*, and there finding no opposition, applied himself to State Affairs, which he managed in such tranquillity, that as being altogether secure from Plots and Conspiracies, he dismissed his *Goths*, trusting to the fidelity of the *Romans*.

A.

4.

A. D

456

Johanne
Varane

Principis
rior jam Co
lis iste cor
Annus ex
rita trahit
Diademata
crescent.
His Coss. Pi
centia depoi
Avitus imp
am.
TST8 DE
Biov Λιμ
μεταλλα
εαυτο

Laid down the
Purple.

9. 7. The Senate perceiving how exposed he now was, and hating him, either for his luxurious life, or in obedience to some instructions receiv'd from the Emperor *Martian*, laid their Trains, and easily drove him out of the City. Being in this distress, and not knowing how to recover his Station, he resolv'd for *Emilia*, and with a slender Company came to *Placentia*. At that time *Ricimer*, a *Sueve*, who had been by *Valentinian* made *Magister Militum*, in the room of *Etius*; in a manner sustained all the Burthen of *Italy*. He hearing of *Avitus* his coming to *Placentia*, went thither, as he pretended, to wait on him; but in compliance with *Martian* his orders, rais'd a Mutiny, and compelled him to divest himself of the Purple; and in the tumult *Messianus*, the *Patritian* of *Avitus* was killed, while he courageously endeavour'd to defend the Dignity of his Prince, who on the seventeenth of *May* suffered this Degradation, which he had not deserved. But probable it is, that out of hatred to *Maximus*, who had made him his *Magister Militum*, and who had been the cause of the burning and plundering of the City, the *Romans* would not own him for Emperor, abominating all things and persons that had any relation to that Man. Some reckon ten Months and eight Days to his Government; but *Evagrius* only allows him eight Months.

A. D.
456.

6. In the mean time, *Theodorich* (or as *Isidore* calls him *Tenderich*) King of the *Goths*, who with the *Galls* had assisted *Avitus* in obtaining the Empire, with a numerous Army quitted *Aquitain*, and with his leave and consent invaded *Spain*. There he was oppos'd by *Recliar*, King of the *Suevi*, and twelve miles off from the City called *Urbs Asturigenfis*, by the River *Urbicus* he gave him Battel; but the Victory fell to the *Goths*, and the *Suevi* being slaughtered in great numbers, some of them taken, and many running away, their King was wounded, and seised in his flight, and being presented to *Theodorich*, was put to death. After this, many that had escaped the Battel yielded themselves, and some being punished in the same manner, the Kingdom of the *Suevi* was in a manner extinct. *Theodorich* now wast'd *Gallicia* and *Lusitania* (now *Portugal*) but his absence in *Spain* fell out well for *Childerich*, King of the *Franks*, who had not long before succeeded *Merouee*, the Successor of *Clodio*, as he of *Pharamond*. Who this *Pharamond* was, doth not appear from *Gregory of Tours*, and who preceded him in that Dignity is also obscure; but that this most valiant Nation had Kings before, is evident both from *Ammianus* and others. The *Goths* being diverted thus in *Spain*, and the *Roman* Army having followed *Avitus* into *Italy*, the *Franks* had the opportunity they often had sought in vain, in settling their Kingdom in that noble Country of *Gall*. Long and often before had they invaded it, but were repuls'd, as in the time of *Aurelian*, and during the Reign of *Fulian*, besides many Incursions suddenly made upon occasion. In the time of *Valentinian* the Third they joyn'd with the *Burgundians*, and piercing further into the *Roman* Pale, were, as we have formerly shewn, repuls'd by *Etius* and *Majorianus*. At length by occasion of *Attila* his Invasion, they got into the middle of *Gall*, and there from this time established their Kingdom at *Paris*, under *Childerich*, concerning whom we shall speak at large in the particular History of that Nation, as also the original of these *Franks*. But thus was another Principality cut out of the Body of the Western Empire.

Isidorus ad A-
ram, 491.
Editione Groti-
ana.

rich
ious in

Franks e-
a King-
in Gall.

also falls

an dies.

7. The Year of our Lord CCCCLVII, is characteris'd with the Consulship of *Constantine* and *Rufus*. The *Inter-regnum* in the West still continued, *Sidonius Apollinaris* having proved but a bad Prophet in his Panegyrick to *Avitus*, when he feign'd how the *Parce* spun an happy time for his Government, and Golden Ages should be usher'd in by his Consulship. So lucky was this Age, that *Genserich*, the *Vandal*, having broken the League made with the *Romans* by the violence offer'd to the City, resolv'd to pursue what he had unjustly begun, and give stamp to one mischief by another. For now did he seize upon that part of *Africk*, which in the partition of that Country was left to *Valentinian*, and driving away the *Roman* Officers, added it to his own Dominion; and so fell off also that noble Province from the Empire, and continued in the hands of the *Vandals* till afterward it was happily recovered by *Fustinian*. As *Rome* was now in the condition of Widow-hood, wanting an Head and Governour, so the same thing shortly happen'd also to *Constantinople*, which in the beginning of this Year underwent the like change. For before the beginning of *March*, (some say, on the twenty sixth of *January*, others, on the twenty fourth of *February*) the Emperor *Martian* depart'd this life, at such time as being highly sensible of the Indignities and Injuries put upon the Empire by *Genserich*, he prepared by his Arms to revenge the Affronts which the Majesty of *Rome* had received. To his Reign Chronologers assign six

A. D.
457.

Constantino
& *Ruso Coss.*

Felix
tempus nevere
forores
Imperii Au-
guste tuis
Consulis Annis,
Fulva volubi-
libus ducunt
secula pensis.

Sect. 7.

Years, six Months, and two days. And though we hear little of him, yet is he much commended by some Writers for his Wisdom and Felicity in Government. Indeed quiet and repose is the end of good Government, and when we hear little of Action, Stirs or Commotions, we may hope, that where there is no Attempt for Reformation, there is no need of it; where there is no application of Remedies or Preservatives, there are no considerable Indications. The danger is, when the Disease is palliated, when the peccant matter is rather tempered for a while than fully altered; when the lazyness or negligence of the Physician consulting only his own ease, contributes to the turgency of the humours. This we must say, that in the time of *Martian* the *Barbarians* gave little or no disturbance on his side of the World; and this we do not find he purchased with Money or Gifts; if he palliated the sore, we shall find it break out again with greater violence. He is praised for his Bounty to the Poor; and his prudence is further taken notice of in this, that the Army he left subject to the directions of the Senate, and the Senate itself so modest and unanimous, that though he left no Heir to the Imperial Title, and many members there were of it, who by reason of Birth and Interest might have had encouragement to set up for themselves, yet in the election of a Successor, there were no such ambitious practises. Of his Religion, for which he is much revered, we are to speak in another place; but in this of an Edict made by him concerning the Marriage of Senators, which having omitted in its proper Year (for it bears date in the Consulship of *Ætius* and *Stadius*) it will be here convenient enough to speak of, as that which will not give any ill savour to the Ashes of the dead, or cast any blot upon his memory.

His Commendation.

8. It was occasioned by a Consultation of *Palladius* the *Præfectus Prætorio*, who desired an explanation of a Law made formerly by *Constantine* upon this Subject. He had ordained, that no *Senator*, *Perfectissimus*, *Duumvir*, *Municipal Flamen*, or *Priest* of a Province, should take to Wife any *Slave*, the *Daughter of a Slave*, a *Freed Woman*, the *Daughter of a Freed Woman*, any one made a *Roman Citizen*, or *Latine*, a *Stage-player*, or the *Daughter of a Stage-player*; a *Tabernaria*, or *Vitrualler*, the *Daughter of such*; of a *Leno*, or *Brothel-House-keeper*, of an *Arenarius*, or *Fencer*; or such a Woman that publicly kept any base Trade; and

Martiani 1
vol. 4. De
trimonis S
torum. D. 1. p
Non. Apri
Constantinop
Ætio & St
coll.

His interpretation of a Law of *Constantine*, concerning the Marriage of Senators.

to these forbidden persons added this, *neither a mean nor abject person*. Now it begate a great Dispute in Courts of Judicature, whether by a mean and abject person any poor and obscure Woman might be meant, however of free and ingenuous condition, and so the Law exclude such from marrying with Senators. To remove the doubt, *Martian* declares it very absurd to imagine, that *honest poverty should tend to any ones disgrace*; for as much as oftentimes slender fortunes have procured to very many persons much Glory, and narrow estates have been the testimony of moderation. And who can, saith he, imagine that *Constantine* of famous memory, when he prohibited the Beds of Senators to be defiled with the filth of polluted Women, did prefer the gifts of fortune before the good things conferred by Nature: and put Ingenuity (or the state of freedom) below Riches, which the variety of accidents may, as well take away as give; whereas that cannot be taken away if born with one. No, he who was the greatest lover of what was decent, and a most sacred *Censor* of manners, did judge these to be mean persons; and unworthy of the Matrimony of Senators, whom, either the ugly blot of their Birth, or a life dedicated to some disgraceful Trade, polluteth with sordid marks, and, as it were, gives them a stain, either by reason of the filthiness of their original, or the obscenity of their profession.

9. Therefore to take away all doubts wherewith the minds of some persons may be possessed: all these things remaining fixed and established, which the Constitution of *Constantine* (*divæ memoriæ*) doth ordain, we judge and determine, that by a *mean or inconsiderable woman*, shall in no wise be understood one that is *poor*, yet born of Parents of free condition. But we ordain, that it may be lawful to Senators and others, enjoying the most ample Dignities to take in Wedlock such as are born of ingenuous Parentage; although they be poor, and that wealth make no distance betwixt those of free condition. And those we esteem to be *mean and abject persons* only, which being reckoned up, and particularly expressed, the said Law prohibits to be joyned to Senators, that is to say, a *Slave*, the *Daughter of a Slave*, one made free, and the *Daughter of such*; one made a *Roman* or *Latine* Citizen; a *Player*, or the *Daughter of a Player*, a *Tabernaria*, or the *Daughter of a Tabernarius*, of a *Leno*, or *Brothel-house-keeper*, of an *Arenarius*, or one publicly professing some sordid employment. And this we believe was the meaning of *Constantine* in the Sanction which he published;

and

ect. 7. and that he therefore inhibited these Marriages, lest Senators should be joyned " *A. D.*
not so much in Wedlock as in Vices with these Women. Moreover, what " *457.*
hath been ordained in Sacred Constitutions either by *Constantine* (of famous me-
mory) or by other *Divi Principes*, concerning Natural Sons and their Mothers,
of Concubines also of ingenuous condition, and concerning those Women that
were married after the death of the Wife, we command to be observed inviola-
bly, yet so, as those which were made later shall be of greater authority than the
former, and whatsoever is behind in time shall be more valid in its Sanction.
Therefore *Palladius* the *Præfekt*, most dear to the *Augusti*, thine illustrious and
magnificent Authority, shall by thine Edicts exposed to view, according to cu-
stom, cause this Law of our Serenity, as that which shall be perpetually of
force, to come to the knowledge of all Men."

10. *Martian* being dead, when a Consultation was held about a new Emperor,
Aspar, by some said to have compassed his end, endeavoured to prefer himself, but
was rejected because an *Arian*. He then being *Magister Militum* improved his
interest in behalf of *Leo* a Tribune, a *Thracian* by birth, of the City *Bessica*, or
after his preferment pretended to have done so. For *Leo* was elected by the uni-
versal consent of the Senate, and then crowned by *Anatolius* the Patriarch, being
of the age of fifty three, or thereabout, as some pretend to gather from the twelfth
Chapter of the second Book of *Evagrius*. After his promotion he managed his
matters very circumspectly, and gained so great reputation, the Patrimony of a
Prince, that neither *Africk*, *Asia*, nor *Persia* dared to disturb him. And to keep
Europe quiet, he thought it high time there should be some worthy person advan-
ced to be Emperor in the *West*, and to this Dignity he resolved to promote *Ma-
jorianus*, a Man of great Virtue and Wisdom, whom having created on the last of
February *Magister Militum*, he dispatched away speedily into *Italy* to take upon
him the Empire, with his Letters Commendatory, and a Noble Train. *Majori-
anus* arrived in *Italy* above a Month after, and going to *Ravenna*, on the first day
of *April* in a place called *Ad Columellas*, six Miles distant from the City, was by
consent of Emperor and Senate advanced to the Dignity of *Augustus*. Removing
back to the City, he set himself seriously to order the Affairs of the Empire, and
for that purpose made choice of the ablest Ministers the time afforded. To *Rici-
mer* he committed the Conduct of the Army, with the usual Title of *Magister
Militum*, for whom sudden and unexpected work was shortly after cut out. For
Genferich could not yet be quiet in *Africk*, but rigged up a Fleet, and put to Sea
with adventure to fall upon such Coasts as best convenience should cast it. Upon
Campania he fell, and wasted it at his pleasure. *Majorianus*, the better to match
him upon both Elements, repaired the Imperial Navy, and got together as many
Ships as he could, but as it were for another year. But to the Coasts he sent a
strong Body of Men, who were placed in ambush so as they might best repulse the
Rovers, and secure the Country People. The *Moors* landed, and leaving the *Van-
dals* on Board, set upon the Husbandmen at their Work, when the *Romans* rising
up fell on them, and easily put them to flight, and forced them to Mountains and
other places of Refuge. The *Vandals* seeing this, were obliged in honour to re-
lieve their Friends, and landing both Horse and Foot, engaged with the *Ro-
mans*; but they were so warmly received, that they thought it best to retreat, and
get them to their Ships again. This Victory was the more seasonable and wel-
come, in that it was accompanied by another obtained by *Burto* against the *Alle-
mans*. He being created *Magister Militum* by *Majorianus*, fell upon them as they
were wasting *Rhætia*, and forced them also into their own Quarters.

11. That which followed, or the CCCCLVIII Year of our Lord was
signalized by the joint Consulship of the two Emperors, *Leo* and *Majorianus*. On *A. D.*
the first of *January*, or the Calends, *Majorianus* assumed the Title, and on the *458.*
Ides, or the thirteenth, he directed an Oration, or a Letter, of the Senate from *Ra-
venna*, which is still extant among his other *Novels*, joyned to those of *Theodo-
sius*, being placed the third in order, though it was the first in time. And the *Leone &
Majoriano
A. A. Coss.*
Title of it is, *Concerning the manner or Rite of the Government of Divus Majori-
anus*. Acknowledge, saith he, Conscript Fathers, me now made Emperor by the
pleasure of your Election, and the Ordination of the most valiant Army. To the
Ordination of all, may God be propitious, who increase the successes of our
Reign, for your and the publick utility; for I came to the Government not by
mine own will, but by the obsequiousness of publick Devotion; that I might
not live to my self alone, or for refusal be judged ingrateful to the Common-wealth,

Sect. 7.

His Letter to
the Senate.

for which I was born. On the *Calends* dedicated to *Fanus* we erected the *Falces* of our happily assumed Consulship, that the present year receiving the " growths of our new born Empire, may be also signalized by our Name. Fa- " your now the Prince you your selves have made, and partake with us in ma- " naging publick Affairs, that the Empire which was given me by your endea- " vours may be augmented through our common Conduct. Conclude you that " Justice will flourish in our days, and Virtues may make a progress under the me- " rit of Innocence. Let no Man stand in fear of Informers, whom, when private, " we condemned, and now specially do oppose. Let none be apprehensive of Ca- " lumnies, but such as are of his own raising. Watchful and diligent in Military " Matters will we be, together with our Parent and Patritian *Ricimer*. Under " God we will preserve in safety the State of the *Roman* World, which by our " common watchfulness we have freed both from a Common Enemy, and Dome- " stick Mischief. I think you sufficiently know my Breeding, as in love to you, " and formerly a companion in life and dangers, I easily promise my self you do; " but I shall still endeavour in all publick matters, if God so please, by the autho- " rity of a Prince, and with the assistance of my Colleague, that of the choice " you have made you shall have no cause to repent. We wish that in all happiness " you may continue most flourishing for many years. Farewel, Conscript Fa- " thers, of the most Sacred Order.

A. D
458An Act of
Grace.

12. By this civil and obliging Letter he could not but please the Senate, but Words without Deeds will not long preserve Reputation. He employed there- fore his *Quæstor* in other matters for reformation of Grievances, and the ease of the People, sufficiently harrassed in these troublesome times, wherein the Provin- ces were still afflicted either by Foreign Enemies, or Domestick: notwithstanding it pleased God to raise up Deliverers now and then. The Provinces were very empty, and the Cities exhausted by reason of Wars and other Disorders, and the poor Provincials discouraged enough other ways, were so troubled with *Compul- sors* about the payment of Tributes, that many forsook their Dwellings, and be- took themselves into solitary places. He considered, that to give redress to such inconveniences, it would be requisite to reinforce the custom of chusing the *Defensores plebis* throughout the Cities, that by them he might be acquainted with their Grievances, without putting poor people to the charge and pain of coming up to Court. For this purpose he published an Edict, bearing date on the eighth " of *March*, and directed to all Governors of Provinces, requiring them to cause " such *Defensores* to be chosen in all the Cities of their several Jurisdictions. He " commands them, that to this end they summon the wonted Assemblies of the " *Municipes, Honorati* and *Plebs*, or common sort, that in them may be fit Solici- " tors made of honest and deserving Men, without any seeking or canvassing for " the Employment." One of the greatest Grievances mentioned in this Edict, as motives to the publishing of it, is the violence and injustice of the *Compulsors*; and the authority of the *Defensores* he thought might put some restraint upon them. But upon further consideration he resolved to take clear away their Employment. And for this end the very next day he directed another Constitution to *Palladius* the *Præfectus Prætorio*, which contained a full and general Pardon and Remission of " all Dues whatsoever that were behind, belonging either to the Receipt of him " the said *Præfect*, or either of the Treasurers, from the beginning of the world " to the beginning of this present eleventh Indiction. And because the *Possessors* " were terrified and frightened out of their Goods by the insolence and power of " *Compulsors*, he further ordain'd, that the Tributes, for the time to come, from " the beginning of the twelfth Indiction, should not be gathered by any *Palatine*, " or any Minister of armed power, as he words it, but by the Officers of Gover- " nours of Provinces themselves. In the last place, as he designs to give relief to " the oppressed; so that the Revenue may not be impaired by the insolence and " contumacy of such as are able to pay, or the Agents or Factors of great men, shel- " ling themselves under the greatness and protection of their Lords, he requires all " such *Agents* and *Factors*, as also them belonging to his own *Domain*, to make their " appearance before the Governors of Provinces when they go their Circuits. In " case of failure, if they bring not in their dues within the year, they shall be im- " prisoned, and pay the double of what they were behind.

Novel. M
ni. 5.Novel. I
ani, 4. I
Id. Mart.The *Sacrii* of
Rome excepted
out of it.

13. The only persons excepted out of this Act of Grace and Pardon were the *Sacrii* of *Rome*, and that for this reason, that nothing might be diminished of the plenty belonging to the venerable City. As he esteem'd her venerable, he

7. was put in mind this Summer of a matter, which, if suffered to proceed, would have much taken off from her Veneration. After such time as she had been wasted by the *Goths*, it had become a custom to fetch Stones and other materials as were necessary for repairing of the publick Buildings from her ancient Works; and after the late Disaster which happened from the *Vandals* some private persons made bold to apply them to their own uses. Out of his Detestation of such practises, tending so much to the defacing of the Beauty of the Place, in an Edict inscribed to *Emilianus* the *Præfectus Prætorio*, dated also at *Ravenna* on the tenth of *July*, he forbade that Temples or other Monuments which had been raised by the Ancients for publick use or pleasure, should be touched in such manner, inflicting upon any Judge that should give such order a Mulct of fifty pounds of Gold; and Stripes, with the loss of Hands upon such *Apparitors* or *Numerarii* as should obey such Orders, and not withstand them by a seasonable suggestion. All such begged Materials he will have restored. And in case any old Monument be past repairing, and it be convenient to employ the Stones, Timber or the like, upon some other Fabrick; this he will not have done till the matter be first signified to the Senate, and if the Senate approve of it, then communicated to himself. For further settlement of Civil Matters this Year, he published another Edict directed to *Basilius* the *Præfectus Prætorio* concerning *Curiales*, and agnation or alienation of Lands, and diverse other Affairs. For calling back the *Curiales* to their Charges, he allows it, provided it be within thirty years. As for the *Collegiati*, he confirms what had been ordained concerning them in a Constitution contained in the Body of *Theodosius* his Code. This is set the first Novel of *Majorianus*, as we have them joyned to the said Code; but bears Date of the sixth of *November*.

Works in
prohibi-
be de-
lied.

A. D.
458.

Novel Majori-
ni, 6. Dat. 6. Id.
Jul.

Majorianus in
besiegeth
hage.

14. *Majorianus* providing thus as well as he could for reformation of Civil Matters, thought he should not approve himself as a complete Prince and Governor, except he employed his Sword as well as his Pen. He thought it would make a great accession to his Glory, if he could but recover *Africa* out of the Hands of the *Vandals*, who as yet seemed not well warm in their Seats. His desire this way so far transported him, that having put on Board of a good Fleet, as considerable an Army; that he might discover the state of that Country, and how the Inhabitants stood affected to the *Roman* Interest, he is said to have disguised himself, and pretending to be sent as Ambassador from the Emperor, in order to a peace, he went to *Geneserich*, was well received by him, and when he had had the satisfaction of seeing his Treasure and Magazine, he returned to his Army, and with it went and laid Siege to *Carthage*. He omitted nothing he thought would conduce to the taking of it, but fell sick during the Siege, which therefore proving ineffectual, and without success, he was glad to carry back his Army: notwithstanding all the fine words of *Sidonius Apollinaris*, at the conclusion of his Panegyrick, who omimates him Victory from all Quarters of the World, particularly that the *Moor* might grow white or pale with fear, *Susa* might tremble, and the *Bactrians* being first disarmed, might attend his Judgment-Seat. However the Emperor succeeded, the Poet failed not of success. For he was honoured with two Crowns or Garlands, and with a Statue in the *Forum* of *Trajan*, as he himself witnesseth in an Epistle to *Firminus*. Indeed he was a very good Poet considering the Age he lived in, and sought to imitate *Claudian*, but *non passibus æquis*. He married the Daughter of *Avitus* the Emperor, and was of great Nobility himself, being a *Gall* of that part of the Country called now *Auvergne*, which the *Arverni* of old inhabited, a most powerful Nation amongst the *Celts*, to the whole community of whom it was wont to give Kings, and with its Confederates, to send out against the *Romans* sometimes two hundred thousand, otherwhiles four hundred thousand Men. His Father had been *Præfectus Prætorio* of *Gall*, as he could remember, though then a Youth.

Man-
rusque timore,
Albus eat sic
Susa remant,
&c.

Lib. 9. ep. 16.
Kide Philiber-
tum Monctum
in Geographia
Gallia p. 206.

commenda-
liers to
nd Mi-
y Affairs
ic.

15. In the East this Year we hear little of *Leo*, but what relates to Ecclesiastical Affairs; yet though he had no present use for his Soldiers, he thought fit they should be in readiness upon any Exigent. But he took notice how many of them, though they received publick pay, betook themselves to other Employments, which drew forth an Act of State, dated on the sixth of *July*, to *Aspar*, the *Magister Militum*, wherein he declares, that Soldiers who are armed and maintained by the Commonwealth ought to be occupied only in things relating to the publick utility; neither travel in the tillage of Land, keeping of Cattel, or in Traffick, but labour in the Employments belonging to their Warfare. He charges him, that for the future he suffer no Soldier to be concerned in such matters, but be frequent at their Co-
lours,

Lib. 1. de Re Mi-
litari, Cod. Just.
lib. 12. tit. 36.

Se^{ct}. 7. lours, by the dayly exercise of their Arms to prepare themselves for War. If a-
ny of the Military Judges should depute any of them to serve in publick Houses, "
or Lands contrary to this Imperial Order, or in other Services, as well such Of-
fendor as he that receives the man shall for every Soldier forfeit a pound of Gold, "
and that presently to be levied. " This Law bears date this Year, as we said, and
the next that follows in order in the *Code* is much to the same purpose, though it
hath no date of either day or year; but it is said to be of *Leo's* making, and di-
rected to *Dioscorus*. It also prohibits Military Men to take upon them Civil "
Cares; or if they have so done, they shall be deprived presently of the Military "
Service, and all Privileges, and incur the Emperor's Displeasure.

A terrible
Earthquake at
Antioch.

16. But another thing happened this Year, which the Citizens of *Antioch* had
sad cause to remember. *Evagrius* writes, that in the second Year of the Reign of
Leo a great Earthquake fell out at that City. That before it began, some of the
Inhabitants were seized with extraordinary madness, such as seemed to exceed all
Ferity of wild Beasts, and to be the Prelude to that Calamity which followed on
the fourth day of the Month *Gorpianus*, which the *Romans* called *September*, about
the fourth hour of the Night, and the fifty-sixth year of the life of *Leo*. It over-
turned almost all the Buildings of the new City, which was well peopled, and none
of it forsaken or empty, being curiously built by the Magnificence of Emperors,
who strove to exceed each others in the adornment of it. The first and second Fa-
bricks also in the Palace were cast down, the rest standing, together with a Bath,
which having formerly been neglected, now when by the Earthquake the rest
were choaked up, stood the Citizens in very good stead. The *Porticus's* before the
Palace were also overturned, the Palace called *Tetraphylon*, the Turrets of the
Cirque near the Gates, together with certain *Porticus's* which led from them; and
some part of the Baths of *Trajan*, *Severus* and *Adrian*; some of the Neighbour-
hood called *Ostracina*, together with the *Porticus's* and the *Nymphæum*; the particu-
lars of which were related by one *John* a Rhetorician. This Writer farther deli-
vered, how the Emperor being troubled with a sense of the Calamity, forgave the
City in Tributes to the value of a thousand Talents of Gold, as also to the Inhabi-
tants their Tolls; and how also he took care of the rebuilding of the publick
places. Thus much *Evagrius* probably tells us concerning the manner and time
of the Earthquake, which he assigns to the second of the Reign, and the fifty-sixth
of this present Emperor. But whereas he placeth it in the five hundred and sixth
after the name given to the City, and at the three hundred and forty seventh after the
Earthquake, which happened in the days of *Trajan*; let others consider of his
Chronology.

It publisheth
the manner of
the manner of
Donations.

17. We are more certain that now we arrive at the ordinary CCCCLIX
Year of our Lord, and yet some have erred, as to the Consulship. For *Sigonius*
makes *Ricimer* the *Patritian* to have been Consul alone; but the *Fasti* and other
Books have it *Ricimer* and *Patritius*. The mistake lay in taking *Patritius* for an
addition of that Honour, and not for the proper name of a Man, and the Con-
junction Copulative being wanting, such an error might easily be committed by one
that did not consult several Copies. But that which puts us out of doubt, is the
Date of a Law made this Year by *Leo*, concerning the Insinuation or registering of
Donations. It bears date on the third of *March* from *Constantinople*, *Patricius* and
Ricimer being Consuls: it's directed to *Constantine* the *Præfekt*, and imports that "
in *Constantinople* all ingrossed Donations of things wheresoever they lie shall be re-
gistr'd by the *Magister Census*. In other Cities, "whether the Governor of the "
Province be present or absent, whether the City have Magistrates or not, and "
there be only a *Defensor*; the Donor shall have free power to publish the Donati-
ons of his Goods or Estates wheresoever lying, either in the Court of the Govern-
or of the Province, in the Office of the Magistrates, or of the *Defensor* of each "
City, as he himself shall please. As the Donation it self is founded upon the "
meer will of the Donor; so it is declared lawful for him to intimate his Donation "
where he shall please in the forenamed places: and such Donations so published "
and insinuated in divers Provinces and Cities shall be of firm and perpetual "
strength and value. " The latter part of this Constitution was afterward abroga-
ted by *Anastasius*, who would have all Donations to be registr'd by the *Magistri*
Census only; for their more certainty.

18. The CCCCLX Year of our Lord succeeds, known by the Consulship of
Magnus and *Apollonius*, and for very little else, except it be another Law made this
Year by *Leo*, concerning the number and Sons of Advocates, what persons they
should

A. D.
458.

L. 16. ejusd.

A. D.
459

Ricimer
Patritio C

L. 30. De Do-
nationibus, Co-
Jus. lib. 8. si

D. 32. ejusd.

A. D.
460.

Magnus &
Apollonius
Coss.

It. 7. should be, and how created. It bears date on the Calends of February, and is directed to *Vinian* the *Præfectus Prætorio*, whose Court being furnished with one hundred and fifty Advocates, it prohibits him to add any more to them under pretence of taking in *Assessors*. And for the time to come, when there shall be occasion to make any new ones, it shall not be done except first in the examination of the Governour of the Province, it be recorded in what Province he was born, and that it appear that he is not obnoxious to the state and condition of a *Cohortalis*. If the Governor of the Province be not to be come at, it shall be done before the *Defensor* of the Town. Besides the Professors of Law shall swear upon Record, that these their Scholars, whom they would have preferred, are furnish'd with sufficient knowledge of the Law. The Sons of Advocates shall be preferred before other *Supernumeraries*. And in conclusion, such as shall be found to be above the number of an hundred and fifty, in this Court may be allowed to plead before the *Proconsul*, the *Præfectus Augustalis*, the *Comes* of the *East*, the *Vicars*, or before the *Governors* of *Provinces*. A. D. 460.

19. In the next, or the CCCCLXI of our Saviour, *Severinus* and *Dagalaiphus* were *Consuls*. It's too memorable in this one thing, that *Majorianus* the Emperor was now murdered at *Dertona*. He had the Year before thoughts of renewing the War against the *Vandals*: which, that he might do with more success, he procured the *Goths* to joyn with him by virtue of the League contracted with them, which struck *Genferich* with such apprehension, that he desired peace. *Majorianus* having no work now in the South, turned himself Northward, and went into *Gall* to settle matters in that Province. Here from *Sidonius Apollinaris* we learn that he celebrated the *Circensian* Games at *Arles*, and made a magnificent Entertainment to his great Officers, at which, the Relator himself was one of the Guests. On the left Side, or Horn, as he calls it, lay *Severinus* the Ordinary *Consul*, a Man, he saith, amongst the great Stirs and Commotions of Princes, and in the unequal state of the Common-wealth, ever of equal Grace and Favour. Next to him *Magnus*, formerly *Expræfect*, now *Exconsul*, a person equalling his doubled Honors. *Camillus*, his Brother's Son, lay behind him, who by passing thorow two Dignities himself, had added lustre to the *Proconsulship* of his Father, and the *Consulship* of his Uncle. *Pæonius* was placed next to him, and after him *Athenius*, a Man of Law, exercised in the variety of times: *Gratianensis* was the next, who, though in Dignity he came below *Severinus*, yet preceded him in Favour. And below all lay *Sidonius*, then *Comes*, the Title the Emperor gave him in their merry Discourse, which, though he relates, it is not pertinent for us therein to follow him, though thus much, to take notice of the persons in favour at this time, and their manner of eating, still the same with the ancient *Roman*, of lying upon Beds. But there wanted other persons, which, had they been at this Entertainment, *Majorianus* might have had cause to be more merry. For while he was absent, composing the Affairs of *Gall*, a Conspiracy was hatched against him by *Ricimer* and *Severus*, both *Patritians*, who agreed, that *Ricimer* should deprive him of his life, and *Severus* seize upon his Empire; for the *Barbarian*, as some believe, had not the confidence to assume the Purple himself. In the mean time *Majorianus*, that he might not be idle, indeavoured to drive the *Alans* out of *Gall*, being nothing so strong either as the *Franks* or *Burgundians*, but they to divert him, invaded *Italy*, which he was then obliged to relieve. This gave advantage to the Conspirators; for when the Emperor was come to *Dertona*, *Ricimer* either sent for, or without orders, there met him with the Forces under his command, and compelling him first to put off the Purple, in conclusion murdered him at the River *Hyra*, to the utter Ruine of the Western Empire. The Empire indeed had long been in a dying condition; but so great were the Abilities and Industry of *Majorianus*, that she gave hope of Recovery under his Hand, though he being removed, it proved but a lightomeness before her death. The Feat being done, *Ricimer* returned to *Ravenna*, and there the Soldiers, being prepared before hand, created *Severus* Emperor, without any Orders received from *Constantinople*. A. D. 461.

20. The Year following, *Severus* invaded the *Consulship*, as he had done the Empire, and bore the Title, together with *Leo*, who now took it the second time, in the CCCCLXII Year of our Lord. And little else beside their *Consulship* this Year is notable; or if any thing of great moment happened, it is buried in oblivion for want of some faithful Historian to transmit the Records. Yet we are told, that now *Genferich* renewed his Hostility against the Islands of the Empire, and raged according to his wonted Lust and Pleasure; and that *Ricimer* opposed A. D. 462.

Seet. 7. posed him as he found, or thought convenient. *Theodorich*, King of the *Goths*, on the other side was impatient of the Repose he had lately enjoyed from War, and to work he went with *Ravennius*, a great Officer of *Severus* in those parts, whom he so wrought upon, that he betrayed into his hands the noble and wealthy City of *Narbone*. And about this matter a great War is reported to have followed in *Gall*, and a meer inarticulate Report there is of it, nothing certain as to particular Councils or Accidents, being known. A suitable Story we have of the Country Men of *Theodorich*, being *Goths* of the East, or *Ostrogoths*, who had their Seat at present in *Pannonia*. Their Kings had covenanted with *Martian* the late Emperor for a certain sum of Money to content themselves, and sit down without any farther Attempts, for mending their fortunes; but this Money, *Leo*, who now reigend at *Constantinople*, forgot, or to be sure omitted to pay them. Yet were they so good natured, and so obedient to the Law of Nations, though still accounted *Barbarians*, that they would not make War before they had denounced it, nor denounce it till they had first complained, and demanded just satisfaction. They sent their Ambassadors to *Leo*, who coming to Court, found not that Reception they expected; but on the contrary they found one of their Nation of the *Goths*, *Theodorich*, the Son of *Triarius*, flourishing there in great favour and splendor, with a noble Train, and suitable allowance. They returned with indignation, and communicated it with the report of their Embassy to these that sent them, who took it in disdain, that they should be thought inferior to him as to Dignity. Acted by the heat of this passion, they invaded *Illyricum*, and put those Territories of the Eastern Empire into such Distress, that *Leo*, fearful whither their animosity might proceed, made them amends, and quieted their minds by Ambassadors of his own, by paying the Arrears of their Pension, and ingaging for the future to do it; by which course the peace was renewed, and for an Hostage thereof he received from them another *Theodorich*, the Son of *Theodomir*; who so improved his time in the knowledge both of Peace and War, that hereafter we shall hear abundantly of this Improvement.

The *Ostrogoths*
tumultuous.

46

Basilus now
Consul.

His Encomium.

21. The Year CCCCLXIII is somewhat enobled by the Consulship of *Vibian* and *Basilus*. For this is that *Cecina Basilus* to whom *Sidonius Apollinaris* gives so large an *Encomium* in one of his Epistles written to his *Heronius*. He compares him with one *Avienus*, who also bore this Dignity, and both of them flourished in great favour at Court, when he was employed thither upon publick business by his Country-men the *Arverni*. He shews how his first application was to *Paulus* a *Prætorian* (or one who had been *Præfect*) by whose direction he was to make choice of some more powerful Minister to manage his Affair. The deliberation was to be short, there being but few out of whom he could make it. Indeed of the Senate at that time most of the Members were considerable for wealth, high in Birth, grave for Age, in their Consultations useful, and men of greatest preferments; but these two *Consulares* were most eminent viz. *Gennadius Avienus* and *Cecina Basilus*, who of all Gowned Men were of greatest authority, next to the Prince. These were men of extraordinary parts, yet various in their humors, and like to each other rather in their Genius, than their Ingenuity. *Avienus* arrived at the Consulship by his Felicity; and *Basilus* by his Virtue, inso- much that the haste made to Honors by the former was merrily talked of; and they discoursed of the number of Employments passed thorow, and the many years passed over by the later. Both of them when they went abroad were attended by numerous Clients, but of such Attendants the hopes and spirit was much different. *Avienus* employed his whole interest in promoting his Sons, Sons in Law, and his Brethren, and being always accompanied with Domestick Candidates, was not able to gratifie Strangers; but what *Avienus* did for his own Relations, that *Basilus* did for those to whom he had no Relation. The mind of *Avienus* was open to all, and that at the first sight, but to little or no purpose: the heart of *Basilus* to few, and long it was before, but with more advantage. Neither of them was difficult of access, or used state; but if you were to make use of them you should find more easie familiarity in *Avienus*, and more ready assistance in *Basilus*. Thus much, and more, about his own Business, *Sidonius* wrote sometime after, concerning our Consul, then a *Consularis*, in whom being Superior, in those good qualities, to *Avienus*, the Family of the *Corvini*, he saith, was preferred before that of the *Decii*.

*Sed inter ho-
quaque quæ,
quam stultus
tamen varii
res & geni-
tius quam
genii simi-
do.*

was also
rest this
ch.

22. But as *Basilus* bore the Office of Consul this Year, so that he executed that of *Præfect*, as he had done formerly, and to it had joyned the Honour of *Patritian* appears

et. 7. appears from a Law of *Severus* directed to him on the tenth before the Calends of *March* with these Titles, "This was for repealing some thing ordained four years before by *Majorianus* concerning Widdows, and leaving them to the direction of former Laws, so as after the Death of their Husbands they should only have the *Ususfructus* of what was settled upon them, and of that dispose as they pleased, but not of the main stock, nor to this or that Child, as they thought fit: yet should they not be bound to give security to their Children, this seeming grievous and unreasonable; for it suited, that if they married again, their Husbands Estates became engaged, if not what they possessed otherwise was obnoxious in case of imbezement, as by this and former Ordinances was provided." In the *East*, *Leo*, it's said, made *Zeno*, his Son-in-law, his Deputy, as it were, or Vicegerent. And little else of Civil Concernment we find transacted at *Constantinople*, except it be an Edict directed to *Eusebius*, the *Præfectus Prætorio* of *Illyricum*, dated on the same day as the other of *Severus*. This gives him the choice of the Fiscal Advocate, who now should continue for two years, and not be annual as lately had been practised: and it confirms to the Body of *Advocates* all privileges granted to them by former Princes.

was also
k't thus
s.

makes Zeno
Vicegerent.

A. D.
463.

Novel. Severi 1.

23. The following Year is characterised by the Consulship of *Rusticus* and *Olybrius*, being the CCCCXLIV of the Ordinary *Æra* of our Saviour. *Italy* had been the former Year in repose; but in *Gall* the Barbarous Nations made great disturbance. For *Theodoric*, King of the *Goths* managed his matters with such industry, that it provoked *Georgor*, King of the *Alans*, who then inhabited also part of that Country to such emulation, or fear, that gathering considerable Forces together, he passed over the *Alpes* this Winter, and invading *Liguria*, left nothing untouched, which the power of his Arms could reach. This gave such Allarm to the Southern parts, that *Ricimer* was ordered with what Force he could make, to oppose the Growth of this Calamity. And he did it to such purpose, that we are told, that no Expedition had better succeeded to the *Roman* Interest a long time before. For attacking the *Barbarians* at *Bergomum*, on the sixth of *February*, he not only defeated their Army, but killed their King in Battel. But whether this happened well or ill for the Empire cannot well be said; for the Emperor it did not. For, the General having formerly taken audaciously upon him to unmake and make Princes at his pleasure, now more puffed up with pride upon his success, began to despise *Severus*, as one of his own setting up.

mer despi-
severus.

dreadful
at Con-
stantinople.

24. The next following, or the CCCCXLV is more, or rather too much considerable both for the effect of the pride of *Ricimer*, and another very sad calamity which now happened. For this Year in the Consulship of *Basiliscus* and *Herminerich* so great a Fire there was at *Constantinople*, as never was exceeded except by that which happened here lately at *London*. This Calamity, if *Evagrius* be judge, was far more grievous than the former Earthquake. It began in that part of the City lying near the Sea, and called the *Ox-street*. He tells us of a report, how a wicked and malicious Devil in the form of a Woman, or a certain poor Woman at the instigation of the Devil, in the Twilight, going to the Market with a Candle in her Hand to buy Fish, leant on the Stall, and went her way. That the flame of the Candle taking hold on Flax, kindled so exceeding great a Fire, that in a moment it consumed the Buildings in the Market Place, and caught hold of the Houses adjoining, not only such as might easily be set on fire, but the Structures also raised of Stone, and consumed them to Ashes. The Conflagration by some is reported to have lasted four days, by others six, and none being able to put a stop to it, it brake through the middle of the City, consumed from the Northern to the Southern Quarter all Buildings, for five Furlongs in length, and fourteen in breadth, left no Houses, either publick or private, Pillars, Arches of Stone, or Vaults unburnt to the very Foundations, piercing Flint and the hardest Mettals as easily, as if they had been Strubble or Straw. On the North Side towards the Haven, a lamentable Desolation was to be seen from the *Ox-street* to the Old Temple of *Apollo*; on the South from the Haven of *Fulian* to the Temple of *Concord*; in the middle of the City from the Forum of *Constantine* to that of *Taurus*: a most dreadful sight. The costly Edifices that had stood stately to behold, the costly carved Timber heretofore very Majestical to the eye, were now, if any thing remained, become like craggy Hills and Rocks; so that no passage could be found for heaps of deformed Rubbish, neither could the owners themselves discern the Bounds of their Possessions; nor say, that this is that which stood thus or thus before the Fire caused this dismal alteration.

A. D.
464.

Rustico
Olybrio Coss.

A. D.
465.

Basilisco
Herminerico
Coss.

Lib. 2. c. 13.

Sect. 7.

Other prodigious Calamities.

Leo publisheth a Constitution for rebuilding of Constantinople.

Interpreted afterwards by Zeno.

25. About the same time (this Writer continuing the series of Calamities adds) when that *Scythian* War raged, which was moved against such *Romans* as inhabited the Eastern Parts of the Empire, *Thrace*, the *Hellepont*, and *Ionia* were wonderfully shaken with Earthquakes. And no less distressed were the *Cyclades*, as also the Islands *Cnidus* and *Cos*, wherein many Buildings were overturned. Moreover *Priscus* wrote, that at *Constantinople*, and in *Bithynia* there fell such Storms of Rain, that for the space of three or four days it poured down like whole Streams or Floods, the violence whereof beat down and levelled Mountains, the Villages were reduced near to ruine, and in the Lake *Boezus*, not far from *Alimedie*, by reason of the Dirt and Filth thither by the Waters conveyed, there appeared Islands. But these things came to pass afterward. Yet as ill accidents either in mortality or otherwise, ordinarily give occasion to wholesome Laws, *Leo* was so concerned at this dreadful Fire, as he published a Constitution concerning Buildings at *Constantinople*, to prevent the like. This Constitution is not now extant, neither could we have certainly known what it was, but that *Zeno* his Successor some years after, finding the Building of the City to go slowly on, by reason of controversies arising about the interpretation of some part of it, was forced to publish a new Edict, directed to *Adamantius* the then *Prefect*, which being penned in *Greek*, instead of interpretation received rather obscurity from several who attempted the publication in several Editions of the Code, till it was undertaken by the Learned *Contius*.

26. *Adamantius* having made report of the Inconveniences arising from the ambiguity of that aforesaid Constitution, received answer, that since such time as the Emperor had enjoyed peace, being desirous every way to secure his Subjects, as well from internal as external Quarrels, he had applied his mind to the making of various Laws, amongst which he would also have this received, which should clearly and plainly demonstrate, both what his *Magnificence* had suggested, and define most cautiously all ambiguities. That he had not much receded from words of civil signification, but used the more known amongst the vulgar, so that whoever should light upon it needed not the help of an Interpreter. That from the Relation of his *Greatness*, he had understood how the Divine Law of his Father *Leo* of immortal memory, which he had made in relation to those that would build in that glorious City, was ambiguous in some of its parts by reason of the naughty opinions of Interpreters. With this Preface he introduceth the Law it self which declares.

27. In the first place that such as would rebuild their Houses shall not exceed the ancient form (neither any shall build upon new Foundations) neither take away light or prospect from their Neighbours contrary to what of late had been ordained. But in case of any stipulation or agreement whereby leave is obtained to do either, or both, it shall be lawful to such persons to make use freely of such Agreement. But whereas the former Constitution, where it required that the distance of twelve Feet should be observed by Builders betwixt one House and another, adding these words *More or Less*, and so by a doubt seemed to take away an Ambiguity; to remove all such doubt and ambiguity both, he expressly requires, that twelve Feet be left, to be measured from the Foundations, and the same distance to be observed, as to the rest of the Building to the very top. Any one observing this Rule, may build as high as he pleaseth, and make what Windows he thinks fit, either for light or prospect. Provided, that no man shall have liberty to intercept the direct prospect of his Neighbour to the Sea, which his House formerly afforded him, sitting or standing. And as for Gardens and Trees, he reserves to add nothing to what formerly had been Law. If so be, that the Ground was such, that the Houses could not be built at twelve Feet distance, then should not the Buildings be at all raised higher than formerly, except at least a distance of ten Feet were left; neither should any prospective Windows be made, except they had been formerly in use. But Windows for light might be made at six foot distance, without any false pavement, or flight used for enlarging them more than they ought to be.

28. As in the former Constitution was enacted, he gives leave for Houses that were to be rebuilt, to be raised an hundred foot high, though they do intercept the prospect of the Neighbours into the Sea. And farther declares, that if a space of an hundred Feet be left between, it shall be lawful to build either upon old, or new Foundations to an height that may take away such prospect. And from Kitchens and other places of conveniency and passages it may be free to take away

A. 1

46

idem cap. 1

L. 12. de
scis priv
Cod. Just.
tit. 10.

t. 7. away such prospect, though the Buildings be raised within an hundred Feet, 1) as “
the space of twelve be preserved, and within the space of twelve too, if it be done “
by agreement of the Parties. For Bow Windows or Lattices made to receive “
Light, called *Solaria*, and *Balconies*, called *Maniana*; he forbids the former to be “
built of Wood and Boards alone, but after the manner of those called *Romanensia*.
Commands that ten Feet be left betwixt those that stand one against another, or “
opposite; and if this cannot be by reason of the straitness of places, that then “
they be not built opposite, but transverse one to another: or if the passage it “
self betwixt exceed not ten Feet, then shall no *Solaria*, or *Maniana* at all be “
raised. Moreover such as shall be built according to due form shall be fifteen “
foot raised from the Ground, and their Pillars, whether of Wood or Stone shall “
not rise perpendicular, neither their Walls, lest the Air or High Ways be stop- “
ped. For prevention of Fire he prohibits Stairs to be raised from the ground of “
narrow places to mount up to them. If such forbidden Works be done, they shall “
not only be demolished; but the owners of them shall incur a Fine of ten pounds “
of Gold, and the Architect or Undertaker ten, and if poor, shall be banished “
the City.

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465.

29. In the the next place he prohibits, that the places betwixt the *Pillars* in “
the standing Rows in the *Porticus's* and *Stations*, betwixt the *Atrium* and Capi- “
tol, be choaked up with Buildings, solid Boards, or other things. That the Edi- “
fices permitted to be there, in breadth exceed six Feet, the Wall toward the “
Street being therein comprised, and in height seven. To be sure, he will “
have free passage lie through the four Ranks of Pillars from the *Porticus's* to the “
Streets, and the Shops there built to be adorned at least on the outside with Mar- “
ble, so as may conduce to the Beauty of the City, and delight of Passengers. In “
other Regions he leaves it free for Shops to be raised betwixt the Pillars, as shall “
seem profitable to the City, and convenient to the Præfect, all equality being ob- “
served, so as what is permitted to one be not prohibited to another. This he “
would have practised to prevent Machinations and Designs of Calumniators against “
honest and well-meaning men. For he cannot but take notice how many are sued “
out of envy and contention, rather than for any real injury done, and forced to “
leave off their Building, and spend their Money at Law which had been laid a- “
side for that purpose, and though they had obtain'd a sentence, yet still to be hin- “
dered from proceeding, by force of an Appeal, and expectation of the fatal Days, “
to no other purpose than that their Adversaries may take pleasure in their Disap- “
pointments.

30. To prevent such mischief, he declares, that in such cases where Appeal “
lies, as soon as the cause is transmitted in Writing to the Judge, it shall be lawful “
for either party, without observing the ordinary time of introducing Appeals, “
either with his Adversary, or alone, to repair to the Court of him the Præfect, “
and the Adversary being called, if absent, to put an end to the controversy with- “
out delay, lest Winter coming on, by expectation of an end to be put to long con- “
tinued Appeals, intolerable Damages be sustained. But in case any will appeal from “
sentence of the Præfect, a Consultation, as they call it, shall instantly be made, “
(viz. a sort of Appeal) for a more accurate consideration of the sentence; and “
that with speed in the Emperor's Palace. And he will have all such as give any “
hinderance to Builders to know, that if they fail in their cause, they shall both “
make other just reparation for the loss, and pay the value of such materials as “
have been spoiled by delay of the suit. In like manner, such as have presumed “
unjustly to build, if they be cast, shall make reparation to those that prohibited “
their Attempt.

Παρηρημα

της κληρο-

νομου

Consultation

παραβολα

31. All Controversies hence arising he will have determined before the Præfect “
alone (in ordinary course) neither shall any of the Illustrious Magistrates hear “
any of these Causes, nor any person concerned be permitted by prescription of “
Militia or *Forum*, to evade the Judgment given, or to escape the Condemnation, “
as to Costs and Damages, made by a ward of the most glorious Præfect of the “
City, or a Cognitor deputed by him. He gives it in charge to his *Magnificence*, “
that no Undertaker, Carpenter, or other Artificer leave any work imperfect “
that he hath once begun, but that, receiving his just pay, he be constrained to “
bring it to perfection; or else make full satisfaction for all Damages to the party “
concerned in the Building. And if he be so poor as not to be able to go through “
with it, he shall be beaten with Rods, and banished the City.

32. But if any person will perfect what hath been begun by another, he shall “

Sect. 7. in no wise be hindered from so doing; as hath been practised heretofore by certain Artificers and Undertakers, who would neither make an end of what they had begun themselves, nor suffer others to do it, to the intolerable loss of those who were concerned to have their Houses built. In the last place, if any refuse to perfect a Work merely upon this Account, because another had begun it, he shall incur the same penalty as he that quitted it imperfect. This is the Constitution of *Zeno* made to explain that of *Leo*, and remove those Rubs that lay in the way, and hindered the Rebuilding of *Constantinople*, the prudence and seasonableness whereof were better to be discerned at that time when the motives were better known and discerned. But it was thought so proper and fit afterwards by *Justinian*, that when objection was made, that it was local and appropriate to the City of *Constantinople*, by a Rescript directed to *John* the *Præfect*, he declared it to be of force also in the Provinces, and that it should be observed for Law by the respective Governors. And after his time, as by the *Basilica* appears, it continued to be of the same force, what concerns the prospect to the Sea excepted, which only held at *Constantinople*, and the places adjoining. This is chiefly to be observed, that according to this manner of Building, for prevention of Fires the Houses were Insular, as it was termed, and if possible, distant twelve Feet one from another.

The Law declared universal by *Justinian*.

L. 13. ejusd.
Dal. Cal. Sic.
post Consul.
Lampadius
Oristis. A.
531.

Sever is poisoned by *Ricimer*.

33. This Conflagration at *Constantinople* was very great and terrible, but a mischief greater than it raged in the *West*, which brought ruine and desolation both to many Countries and Cities. This was that impudent and sawcy boldness of the great Officers, particularly now of *Ricimer*, who took upon him to make and unmake Emperors at his pleasure, which being frequently done; the Enemies of the Empire took heart and occasion to exercise their Hostilities; for if a Man of Courage and Resolution arrived at the supreme power they concluded his Reign would be but short, and the obstacle ere long removed. *Ricimer*, as we said, had begun to despise *Severus*, as one of his own setting up; and now resolved to remove him; yet something there was, either a sense of his crime, or some other thing, which hindered him from doing it in a publick manner. For, it's said, the Feat was done by poison, though by the contrivance and deceit of *Ricimer*; and toward the latter end of the year it was, though we know not the certain time; for that he was alive on the twenty fourth of *September* we are well enough persuaded from the Date of an Edict he gave out to *Basilus*, on that day, with the Titles of *Præfect* and *Patritian*. The subject of it is of smaller importance than the Date, as to our knowledge; though then of such consequence as to be published by reason of a publick complaint made by the Mouth of *Ausonius*, a person of illustrious condition. Of more publick concernment seems another published by *Leo* on the ninth of *November* following, for encouragement of such as would generously and of their own accord take upon them Offices and Employments in the places where they lived, without any obligation, by reason of their Birth and Condition so to do. It, in justice, declares them and their Children free from the *Nexus*, or sort of Bondage to which others were obnoxious, being only answerable for such profits of the Corporations as they receive; and further, as encouragement, that if they discharge all the Functions of the *Curiales*, they shall, if they think fit, for their kindness and liberality have the Style and Title of *Fathers* of these Cities or Places wherein they became voluntary *Municipes*.

Novel. 2. s
De Corpor.
Dat. 7. Cal.
Octobr.

A Law of *Leo* for encouragement of voluntary *Curiales*.

L. 3. de his
sponte, &c.
Just. lib. 10
43.
Quasi Pat.
tine, vide
munera sin
Notis ad 1

An *Inter-regnum* in the *West*.

34. The Year following is as it were maimed and imperfect in its Characters, having but one Emperor and one Consul. *Leo* in the East bore the Title of both jointly, taking upon him the Consulship now the third time, without any Colleague, the *Inter-regnum* continuing in the *West* all this Year, which was the *CCCC LXVI* of the ordinary *Æra* of our Saviour. And it procured very heavy hearts to the poor *Italians*, to whom it was something uncouth to have no Prince in that Country which had given original to the Empire, and besides that, they were, notwithstanding the resistance made by *Ricimer* (who took all upon him) continually in Allarms, by reason of the restless spirit of *Genferich*, concerning whom that we should make some particular Inquiry what he did since we had so much occasion to speak of him, the History of this time is not in any thing more concerned. And here *Procopius* helps us otherwise at a dead list. He informs us, that after his sacking of *Rome*, and carrying away the Empress with her Daughters, he ceased not to attempt many other things. For besides *Carthage*, he made naked all the other Cities of *Africk*, by depriving them of their Walls, that if the Natives should side with the *Romans*, they might have no encouragement from

A. 1
46
Leone
Coss.

Hist. Vand.
lib. 1.

The Actions of *Genferich* about this time.

fenced

Sect. 7.

fenced places to make disturbance; neither if the Emperor should send over an Army, his Soldiers should find harbour to manage thence a War against the *Vandals*. And this at present he was thought to do with great prudence and foresight; but in the following Age when these naked Cities were without any trouble or expence taken by *Belisarius*, then he was laugh'd at for his policy, and his wisdom accounted folly: so various are the opinions of Men, and regulated by event, concerning the designs of other persons.

35. But this being done to the Cities and fortified places, all men that were considerable for Reputation or Wealth, *Genferich* delivered into the hands of his Sons *Honorich* and *Genzo* to be treated no better than Slaves; for *Theodorus* his youngest was already dead without issue left of either Sex. From others of the *Africans* he took the most and richest Grounds, which became afterwards known by the name of the *Portion of the Vandals*, the true and ancient owners being permitted to go whither they would in a free, indeed, but beggarly condition. But what Grounds he bestowed either on his Sons, or other *Vandals*, he made free from Burthens, which he laid so heavy upon the more barren, which were left to their former Lords, that nothing did they gain from their former possessions. Hence came it to pass, that many fled their Country, and as many were put to death under pretence of various crimes, whereof the principal was, that they were said to hide their Money. But so lay *Africa* groaning under most heavy Calamities. For he not only placed his *Vandals*, but *Alans* also in Garrison, in convenient places under no fewer than eighty Officers, who bore the name of *Chiliarchs*, or Commanders of a thousand Men; for though his Army of both Nations consisted really of no more than fifty, yet he would have it bear the reputation of eighty thousand. But the number of his Soldiers increased with time, as the *Vandals* increased in their progeny, and other Nations were taken in, all which (the *Alans* as well as others) the *Moors* excepted, united, and grew into the common name of *Vandals*. And by the assistance of the *Moors* having increased his strength, after the death of *Valentinian*, every Spring he infested *Sicily* or *Italy* it self, some Towns subjecting to Slavery, demolishing others, and exhausting all by his Rapines, so long, till being driven thence by that desolation and want which he himself had brought along with him, he turned his Face toward the Quarters subject to the Emperor of the *East*, wasting all *Illyricum*, *Peloponnesus*, the adjacent Islands and other parts of *Greece*, or which bore the name thereof. Thence he returned back to *Italy* and *Sicily*, and took away what he found, if any thing he had left. It was reported, that being put to Sea out of the Haven of *Carthage*, when he was asked by his Pilot where he intended to make War, he answered, against those with whom God was angry. So did he run upon all in an hostile manner, without any cause or provocation. And so much *Procopius* concerning his Depredations, who adds, that the Emperor of *Constantinople*, out of indignation, rigged a great Fleet against him. But this was afterward.

36. However, we may easily believe them that write his Depredations to have continued, and possibly with greater rigour, during this *Inter-regnum* in the *West*, which not only might imbolden the Enemies of the Empire to infest *Italy*, and the Islands, but also other Provinces which still continued to be languishing Members of it. The Senate now every day at *Rome* bore more heavily their Condition, and the death of *Severus*, who had given them good hopes of making head against, and giving a check to the insolence of the Pyrate. They did, as soon as convenience would permit, give notice of it to *Leo*, in whom alone at present the Majesty of the *Roman* Name resided, praying him, that in these times of so great hazard he would procure them a Prince like to *Majorianus*, or else in a short space the Empire of the *West* would be quite extinguished. The case seemed difficult, and it's said, that *Leo* spent all this Year in deliberation. There was then with him at *Constantinople*, *Anthemius*, the Son of *Procopius*, and Nephew of that *Anthemius* who had born the Office of Consul, together with *Stilicho*, and was the Son-in-law of the late Emperor *Martian*. This *Anthemius* bearing the Dignity of *Magister utriusque Militie* and *Patritian*, had waged War with good advantage against the *Huns*, and for his Wealth was otherwise very considerable. To these Qualifications the favour which *Leo* bore him, added so much weight, that in consideration of his Nobility, and other Deserts, he thought him the fittest person he could chuse, and resolved to make him his Colleague in the Western Empire.

37. The Year being over which had neither Consul nor Emperor in the *West*, the CCCCLXVII of our Lord succeeds, which according to the custom was

A. D.
466.

Sign.

A. D.
467.

Pushed off.

opened

Seet. 7. opened by the Consulship of two *Flavii*, *Pulsus* and *Fohn*, and was further signalized by the Legitimate Creation of a new Roman Emperor. That this was *Anthemius*, we may easily guess from what we have already said concerning the purpose of *Leo*, who was solicited, as *Evagrius* writes, by an Embassy sent from the *Romans*. And not only *Evagrius*, but *Sidonius Apollinaris*, though in a Panegyrick to this *Anthemius*, writes of his being sought for, and desired by the Senate; for the Members of it we suppose him to call by the name of *Proceres*, to whom in it he directs his speech. And from him it also appears, that there was some private agreement betwixt *Ricimer* and *Anthemius*, if not the Emperor himself; that *Ricimer* should marry *Anthemius* his Daughter; for after the Poetical way of *Claudian*, whom he imitates, he makes *Rome* at the desire of *Italy* to take a Journey into the East, and to desire of *Constantinople*, that in recompense for all the losses he had sustained by her, she would grant her *Anthemius*, who by his Daughter should make himself happy in having *Ricimer* for his Son-in-law, and hereby a private alliance be added to the publick. *Anthemius* was not slack to take the opportunity, but came to *Rome* on the twelfth of *April*, where he was received with universal applause, and owned for *Augustus*. And according to agreement he delayed not for his own security, as well as truth, to give his Daughter in Marriage to *Ricimer*. And the Nuptials were celebrated with all solemnity possible, and with excess of Jollity, as *Sidonius Apollinaris* sets it out, who terms it *Occupatissima Vacatio*, or a most busie idle time wherein all serious matters were silent, except the Wedding it self, which must needs be such, seeing, as he saith, *Perennis*, the Daughter of the Emperor, was coupled with *Ricimer* the *Patritian* in, or for hope, of the publick security. This *Sidonius* was present at himself, coming then to *Rome* on his Message from his *Arverni*, being kindly entertained, as he writes to his *Honorius*, in a second Letter, in the House of *Paul*, a person of *Praefectorian* Rank, venerable, he saith, for Learning and Sanctity. No man, he adds, was more excellent than he in all kinds of Arts. He falls into a rapture in consideration of his Abilities, and concludes his short Character with this full expression, that he had this excellency above all his Studies, that *He had a Conscience superior to that Eminent Knowledge*. To strengthen the Empire fully, if possible, by alliances, *Leo* the Emperor is reported also to have given *Leontia*, his Daughter, in Marriage to *Martian*, the Son of *Anthemius*.

37. For the Year CCCCLXVIII, *Anthemius* the Emperor was Consul alone the second time, thirteen Years having now intervened since, with *Valentinian*, he was first graced with this Dignity. *Sidonius Apollinaris* being still in Town, *Basilius*, his great Friend he so much admires, perswaded him to stir up his Muse, recollect his Fancy, and write a Panegyrick in honour of the new Emperor and Consul, which he did with commendation enough, though it breaks off something abruptly; and for a reward, at the instance of *Basilius* he was honoured with the Praefectship, though whether it was a real and Active one, or Titular, and by way of Codicils, we may at least question. Were it Active, it must be of *Gall*, his Country; but there *Arvandus* now executed that Office, though not long he continued in it. For while *Sidonius* still resided at *Rome*, he was so vehemently accused of high misdemeanours by several illustrious persons, that he was called up to answer his heavy charge of Treason they laid against him. Hereof, and of his Trial *Sidonius* hath left us a pithy Description in an Epistle written to his Friend *Vincen-*
tius, which containing a form of the ancient Judicature, it is very proper here to be inserted, and it shews the Generosity of the Describer. For, he begins with a Declaration, That he was really vexed at what had befallen him, and troubled at his Condition; this being over and above the heaps of Praise, due to the present Emperor, that it was free for one openly to make profession or demonstration of Love, even to such as were condemned to capital punishment. For he was the Friend of *Arvandus*, even more than the fickleness and variety of his humour would bear; which was sufficiently attested by the ill will he had contracted in his behalf, whereof the flame had singed him, being a little unwary. But that he continued in his friendship he saith he ought to himself. As for *Arvandus*, he would complain freely, but not insultingly, that he used no diligence to persevere, because despising the advice of his faithful Friends in all things he became the flouting stock of fortune. But in conclusion, as to this point, he admires not so much that he fell, as that he stood so long. O how often, saith he, did he complain of adverse Fortune, when we lamented, that one time or other his temerity would give him some heavy cause so to do, concluding not himself

A. D.
467.

Lib. 3. c. 16.

Hic est o proci-
ris petat qui
Romulae viri
Et quem celi
amor, &c.

Adjice preti-
um privatum ad
publica fac
Sit locus An-
themio gigni
Ricimeri be-
nevolentia-
te micans et
vobis regia-
go, &c.

Lib. 1.
p. 1.

Lib. 1. ep. 9.

A. T.
468
Anthemius
2. Coll.

Lib. 1. ep. 7.

St. 7. to be happy, who was indeed so to other frequently than always. Then he declares the manner of his Government, which he doth with a Salvo to the Reverence due to his Office, and his Friendship, which is ever owing to a Friend in Affliction. A. D. 468.

ill he
ged his

39. His first Prefecture was managed with great Regularity, and the second (to express his playing with his Office) with great Depopulation. Being burthened with Debts, for fear of his Creditors, he grudged the Noblemen that were to succeed him, that they should laugh at all their Discourse, he inquisitive into their Designs, despite of their suspicions when they seldom came to him, and when they did come, he would disdain their Company, till being surrounded with publick hatred, and surrounded with a Watch before ungirt from his power, he was laid hold on, and brought as a Prisoner to Rome. In his Voyage he was puffed up with a conceit, because he had prosperously sailed by the boisterous Coasts of Tuscany, that the Romans should, and, as it were, waited on his Incomer. In the Capitol he was lodged with Flavius Aetius, the Comes Sacri Largitionum, who bore respect to the Dignity of the Prefecture, as yet half smothering in him. In the mean time the Messengers of the Province of Gall, Toranius Ferreolus, a Praefectus, and the Nephew of Syagrius the Consul, by his Daughter, Thaumastus, and Petronius, men of great Abilities both in knowing and speaking, and so well acquainted among the prime Ornaments of their Country, arrive with their Commissions, and instructions to accuse him in the name of all the Galls. Amongst other things given them in trust by the Provincials, they brought a Letter intercepted, which was laid by Arvandus his Secretary, upon his apprehension, to be dictated by his Master, whereby he dissuaded the King of the Goths, to whom it was directed, from making peace with the Greek Emperor; laboured to convince him, that the Britains inhabiting above the Loire were to be fallen upon; that Gall by the Law of Nations ought to be divided with the Burgundians, with other such stuff, which would enrage a furious King, and displease one of a mild disposition.

40. This Letter the Lawyers with heat interpreted to contain High Treason. Of it Sidonius and Auxantius, a most excellent person, were not ignorant, who accounted it a perfidious, lazy and base thing to forsake their Friend Arvandus, now laid at, and in adversity. To him who feared in such matter they laid open the whole design, which his inflamed Enemies laboured to conceal, till the time of Judgment, that they might involve him, being contrary, and having refused the advice of his Acquaintance, in a confession by a sudden answer. They told him what they and his most secret friends thought most safe to be done. They perswaded him not to confess the least matter, for though his Enemies pretended it was small, he would find it a diffinition very troublesome. Hearing this, he flung away, and falling into a sudden rage, bid them be gone, as degenerate men, and unworthy of his acquaintance, and because they understood nothing, to let him alone. This he said, to Arvandus his Conscience sufficed, and he would hardly commend it, if Advocates should plead for him in the Causes of Bribery and Oppression. They went away sad, and in confusion, as well with grief, as with the effort. For what Physician would be moved reasonably when madness seized on a desperate man? But the accused person runs about the Capitol in White Cloths, sometimes is pleased with crafty flatteries, and with the bubbles of flattery. Sometimes turns over the Silks, Gems, and other costly Commodities, views them, as if he would barter for them, and in doing so complains much of the Levity of the times, of the Senators, and of the Prince, because they would hear him before they heard him. A few days pass over, and a full Senate meets, (as Sidonius says, for then he was absent,) and the Count Arvandus goes trembling and imboth-faced, when his Accusers in the morning hall, or Morning, expected Messengers from the Decemviri, and by their speech obtained some due commiseration from the accused Party.

ed.

41. Those that were appointed are less, the parties according to the custom stand over against one another, and the right of sitting, before the beginning of the Process, is offered to those of Praefectorian Rank. Arvandus now by an unhappy impudence hautes and places himself almost in the Laps of the Judges. But Ferreolus, with his Colleagues, late there, sits quickly and modestly at the upper end of the lowest Benches, and thus he did, representing himself as well a Messenger as a Senator, and was afterward the more commended and honoured for it.

In

Sect. 7.

In the mean time such Members as were silent strikers, the parties rise up and the Messengers proground. After the Provincial Mandate, the letter, of which mention was made, is produced, and when it is slowly reading, *Arvandus* without asking, proclaims that he did dictate it. The Messengers answer that it very wickedly appears that he had dictated it. He is a rage, ignorant of his ruin, by a second and threefold confession stabs himself. The Accusers acclaim and the Judges conclaim that he confessed himself guilty of high Treason, and he is now destroyed by a thousand rules of Law, which make justice. After all his toyl he appears pale and too late to repent of his *Loquacity*, and also too late to understand that a Man may be pronounced guilty of high Treason, though he do not aspire to the Purple. He is perfectly deprived of the privileges of his double Prefectship, which he had in course exercised five years, and, not as added, but as restored to a plebeian Family, adjoined to the publick Prison. Such as beheld it thought it a very sad thing that he who had lately thrust himself in so polite and Comptea Garb amongst the Judges under the accusation of men in mourning habit, should a little after be led away, cast, a miserable Man and yet without consideration. For who would regard his Condition, whom perfumed and in accurate Clothes he saw led away unto the common Gaole. His Sentence being hardly repined for a fortnight, was capital, and he was cast into the Island of the Serpent at *Epideirus*, where to the grief of his very Enemies he was made fordid and despicable, and as it were spued out of the World by the Vomit of nauseating Fortune. Now by virtue of the old *Senatusconsultum Tiberianum* he draws his breath for thirty days, thinking with horror on the *Fæces*, *Germania*, and the halter of the rugged Hang-man hourly. We, he concludes, as much as we may, present and absent, with agd double our Prayers and Supplications, that suspending the stroke of the Sword already drawn, the goodness of the Emperor would banish him already half dead, though with the loss of his Estate. Whether this was granted or no, appears not from *Sidonius*. But in *Calliodorus* his *Chronicon*, the following year we find that *Ardeburus* attempting the Empire, was by command of *Anthemius* sent into banishment. In which place *Reverius* well conjectures that instead of *Ardeburus* or *Arvandus* as some Copies have it, *Arvandus* is to be read.

Is banished

41. How miserable was the condition of the Provincials of *Gall* at this time, who having forrein Enemies of several sorts in the Bowels of their Country, were as much afflicted by their own Governours, who suffered as much from those from whom they expected protection as from the violence of the insulting Barbarians? Had *Sidonius* succeeded *Arvandus*, doubtless they had found relief, but we find no such matter, his power was all included in his Codicils, for that he was any more than a condictal Prefect we cannot well imagine, and that of the City, from what he speaks concerning that Honour bestowed on him, which of old governed the highest the Fathers and of the common People; And that he executed the Office actually of Prefect when *Arvandus* was condemned, as one who hath written his Life tells us, we cannot find; but rather that he there made a stay upon his being sent for by *Anthemius* as some say he was, or rather after his Message from the *Arvern*. Who succeeded *Arvandus* is also obscure; but from *Sidonius* we find that not long after this, when he was again in his own Country amongst his *Arvern*, the Country was governed by full as good and innocent a Prefect as *Arvandus* was. His name was *Seronatus* of whom *Sidonius* sadly complains, though in a somewhat jesting manner to his Friend *Helladius*, whose presence he requests to put some stop to the Carrier of his Extravagancies.

Accepi c. q.
Honorem ci-
vitem ac p-
simul unus
fura guber-
lib. 9. ep. ult
cam.

42. Thy *Arvern*, *Sidonius* he now grows under a good chief; the presence of *Seronatus* and thine absence. Of *Seronatus* I say, of whose Name that I may first speak, fortune seemeth to me to be precious, what was to come so to have sported, as on the contrary our Ancestors did when they called Battles, than which nothing is more thought by the name of *Bella* or hand-some, and by the same contrariety when they called their Fates *Parca* which do not spare. *Catiline* himself of our Age, is lately reproved from *Atures*, that all the Blood and Fortunes of miserable People of which he there did but taste, here he might swallow. Know for certain that daily he discovers the Spirit of his long dissembled Madness. He openly envies, pitifully dissembles, is fervently pious, commands as a Lord, enacts as a Tyrant, condemns as a Judge, calumniates as a Barbarian, all the day being armed by fear, hun-

Seronatus his
Successor as
bad as he.

Lib. 2. ep. 1

ect. 7. gry by Avarice, terrible by his ambitious Desires, cruel by his Vanity; he " A. D.
ceaseth not to punish and openly to commit Theft together, and calling to him " 468.
such as cannot forbear laughing, he belches out Contentions amongst the Ci-
tizens, and Letters amongst the *Barbarians*. Being not sufficiently initiated in
the Rudiments or A. B. C. he publickly dictates Epistles, moved by his boast-
ing Humour, and by his impudence corrects; in a manner he gets all he
covets, neither doth he give any price contemning, nor doth he receive securi-
ties despairing; in Council he Commands, in advising is silent, jests in the
Church, preaches at Meals, condemns in his Bed-chamber, sleeps at a Tryal,
daily fills woods with them that fly away, Towns with Enemies, Altars with
Criminals, Prisons with *Clerks*, exulting, or rejoycing, with *Goths*, insulting
upon *Romans*, jeering *Præfets*, and sporting with *Numerarii*; treading under
his Feet the Laws of *Theodosius* and propounding those of *Theodorich*; fear-
ching out old Faults, and new sorts of Tributes. Shake off, I pray, all delay,
and break through that which hinders. The dying liberty of thy panting Citi-
zens expect thee. They are resolved that whatever is to be hoped for, or to
be despaired of, nothing shall be done without thy guidance and direction.
If the Commonwealth have no Force nor Refuge; if, as the report is, *An-*
themius the Emperor hath no Strength; the Nobility is resolved, if thou speak-
est the word, to free their Country or lose their Heads. So he ends
this Letter; but from another written to *Græcus* a Bishop it appears, that they
stood to their Resolution; for, in that, reckoning up the sufferings and merits
of his *Arverni*, he relates how for their love to the Commonwealth they fear-
ed not to deliver up to the Laws *Seronatus* who was delivering up the Provin-
ces to the *Barbarians*, and whom being Convicted, the State, afterwards, hardly
presumed to put to death.

put to
death.

o makes
eat prepa-
rations against
infrich.

43. So weak we see was the *Roman* Interest in *Gall*, and daily it decayed,
while in *Africk* it was almost quite extinct or in a manner without hope of Re-
covery, *Genferich* domineering at his pleasure and making his Inroads into such
other places as his ambitious lust did incline him. Amongst these, we lately
heard from *Procopius* that *Illyricum* and *Peloponnesus* were infested by him, which
belonging to the Eastern Empire, the Emperor of those Parts took it in very
high Disdain, and resolved with all his might to chastize his fury. An Army
he raised of an hundred thousand men, as was reported, and such a Fleet he ga-
thered together as all the Eastern Sea could afford. He was very open handed
both to Mariners and Soldiers, that no hinderance to his Design might happen
by their want of encouragement; an hundred and thirty thousand Pounds
of Gold were reported to be laid out. But the time of the Ruine of
the *Vandals* not being yet come, he made *Basiliscus* the brother of his Wife
Verina the Admiral of his Fleet, one who was wonderfully greedy of the Impe-
rial Power, and who promised himself success in his Design from the friendship
of *Aspar*. Now *Aspar* was an *Arian* in his opinion, from which he would no
way be removed, and for that reason could not compass the Sovereignty for
himself, but could yet advance another to it; and was begun to be suspected by
Leo as hatching dangerous Designs. The Report went that *Aspar* fearing that
upon good success *Leo* would grow bold and exert his power, advised *Basiliscus*,
that he should spare *Genferich* and the *Vandals*.

44. *Leo* that he might have greater assistance against them, had procured *An-*
themius, a man very Eminent for his Nobility and Wealth, to be Emperor of
the West. *Genferich* had used all his Endeavours to have *Olybrius* preferred, for the
Alliance he had with him, contracted by his marrying of *Placidia* the Daughter
of *Valentinian*; and being frustrated in his hope was now inflamed with anger,
and infested all things belonging to the Empire more cruelly than ever. At this
time there lived in *Dalmatia* one *Marcellianus*, a man of an honest disposition,
and formerly a friend to *Albinius*: Who when *Albinius* was killed, revolted from
the Emperor and drew others by his example into the Revolt, and none adventu-
ring to come against him held *Dalmatia* in his own power. But *Leo* sweetning
him all ways possible drew him off and sent him into *Sardinia*, now Subject to the
Vandals, and he so succeeded as to drive them out and make himself Master of
the Island. Neither did matters worse succeed in the hands of *Heraclius* who
being sent from *Constantinople* to *Tripolis*, overthrew in Battel the *Vandals* of
those Quarters, took the Towns without any difficulty and there leaving
his Ships, led his Army by Land to *Carthage*. Such prosperous beginnings had

Sec. 7. the War. *Basiliscus* with all his Fleet arrived at a Town distant from *Carthage* an hundred and eighty furlongs; which had the Name of *Mercury* from an old Temple dedicated to that Pagan Deity. And had he not on purpose loitered, but gone streight to *Carthage*, he might easily have taken it by force and brought the *Vandals* under the yolk; so great a fear of *Leo*, as invincible, had seized on *Genferich* when after the Report of the loss of *Tripolis* and *Sardinia* the Fleet of *Basiliscus* appeared, as great as ever the *Romans* had had any. But the General suffered this opportunity to slip out of his Hands.

A. 1
461

45. But *Genferich* failed not to make his Advantage of his Neglect. As many men as he could procure and trust he got together and filled his Ships with them; and had other Vessels in readiness which had no men in them but were swift in sailing. Then sent he to *Basiliscus* to beg a Cessation of Arms for five days, to have some time for consultation how he might best be reconciled to the Emperor; and some gave out that he sent him money to purchase a Truce. This point he gained thereby, that as he had desired, he had the wind favourable for his purpose. For *Basiliscus* either in obedience to *Aspar*, corrupted with money, or judging he did best, yielded to what he desired, kept his Army idle and staid for that time that might be convenient for the Enemy. Now as soon as this was come, and that the wind blew from the right quarter, the *Vandals* having what they expected, hoised up Sails, towed out their Ships, and such of them as were empty they haled against the Enemy, whom when they approached they set them on fire, and with full Sails let them drive upon the *Roman* Navy, wherein being contained a multitude of Vessels it easily took hold. And spreading itself wide, a great terror, as in such cases, followed in the *Roman* Fleet, and a grievous cry, while the wind and flame made a terrible Noise, and the Soldiers and Mariners contended amongst themselves what should be done, and with their Poles endeavoured to keep off the flaming Vessels and thrust off their own without any reason or moderation.

His Fleet
burnt.

46. But the *Vandals* omitted not to attend them and plied them with their weapons. Some they drowned and if any fled they took them and their Arms as booty, yet in such a distress there wanted not some that were mindful of the antient valour of the *Romans*, amongst whom *Fohn* was most Eminent the Lieutenant of *Basiliscus*, yet not concerned in his Treachery. When his Ship was now surrounded with Enemies, turning himself into all quarters of the Vessel, he laid about him and did them much mischief, and when he saw it was in vain, and that his Ship must be taken, from the Prow thereof he cast himself armed into the Sea, and when *Gonzo* the Son of *Genferich* earnestly intreated him to spare his life, promising him safety, he would not do it but drowned himself saying only this, that *Fohn* should not be in the power of Dogs. This was the End of that War, and *Heraclius* returned home. *Marcellianus* miscarried by the treachery of one of his Officers. *Basiliscus* when he came to *Constantinople* took sanctuary in the Church of Christ, the great God, which the Inhabitants called *Sophia* or *Wisdom*, thinking that Name most worthy of God. And he escaped danger, through the Intercession of *Verina* the Emperess, but at this time he could not obtain to be Emperor, out of hope of which he had left nothing undone. For, *Leo* not long after killed *Aspar* and *Ardaburius* in the Palace, suspecting that they lay in wait for his life. Thus much *Procopius* from whom it appears that by procurement of *Aspar* this Treason happened, who being an Arian might bear good will to *Genferich*, a man of his own persuasion, upon that Account as well as hatred to *Leo*: As for the Fleet thus lost some write strange things indeed; as that it should consist of eleven hundred Ships: That when the Fleets were ready to joyn *Basiliscus* tacked about and fled, which the rest seeing him do followed his Ship: That after this Flight the Navy lying without care or watch was set on fire by the Enemy. And that the Fleet being lost the Land Army also miscarried, the Officers thereof, when they might have taken *Carthage*, being discouraged.

By procure-
ment of *Aspar*.

47. Thus miscarried so great an Enterprize under the managment of Hereticks, while, as some observe, another War committed to that of an Orthodox General, did well succeed against *Densces* King of the *Huns* and Son of *Attila*, than whom he began to be more Fierce and Ambitious; if it were possible. His Army was defeated and he himself slain in Battel. His Head was put upon a Pole and carried in Triumph up and down *Constantinople* to the great Joy of the Citizens; which passage *Marcellinus* placeth under these Consuls, and if

Densces the
son of *Attila*
defeated and
slain.

duly,

ect 7. duly, then, what is written by the *Gothick* Historian and lately mentioned, concerning the Dissipation of the *Hunns*, and the Dissention and Ruine of the Sons of *Attila*, is to be accounted of by way of Anticipation. *Leo* having thus his Hands full, and put to such a vast Expence, had reason to be careful of his Revenue that what was duly imposed should not be diminished, and to see that the Magistrates of the Title of *Speſtabilis* should take especial care thereof, as *Pro-Consuls*, *Vicars*, the *Comes* of the East and the *Praefectus Augustalis*, besides the ordinary Governours of Provinces and their Officials, with the *Curiales*, in case of Diminution a Fine should be incurred of twenty Pounds of Gold. That he might not be defrauded by Purchasers, he published a large Constitution dated on the first of September, which declared that if either his own House or any other of whatsoever Dignity or Fortune, should get possession of Lands not belonging to the *Metrocomia* or Mother of Villages, not by way of Patronage, but by Purchase or any other lawful Title, and not acknowledge to the Commonwealth the Functions, owned and discharged by the former owner, such Possessions should be seized and assigned to the *Curia* of that City to which they belonged, that so provision might be made for the publick advantage out of the Tributary Functions.

akes care
his Revenue.

etrocomia
at and how
ce.

48. In these that they called *Metrocomia* he will not allow any stranger to obtain any Possessions, but if any of the Townsmen will alienate their Lands, it shall be only to a fellow-Townsmen or Inhabitant of the same *Metrocomia*, all Contracts made with Strangers being hereby declared null and void. Now a *Metrocomia* was the same amongst Towns or Villages as a *Metropolis* amongst Cities, or the Mother of Villages, and as Cities were free from the *Capitatio* so were the *Metrocomia*, but not the other Villages. But whereas to defraud the Tributary Function, many were wont to betake themselves to the Patronage of greater men, he further declares that after this Sanction all such Agreements made either under pretence of Gift, Sale or Hire, shall be of no Validity; the *Tabelliones* that draw the Instruments of Conveyance shall forfeit their Estates, and the Villages that shall do it, shall be confiscated; such as receive them into such Patronage, if wealthy, shall forfeit an hundred Pounds of Gold, and if poor shall lose what Estates they have with which loss they shall also be punished who give any aid or assistance to such Bargains. Nay this Rule he will have of Force from the time contained in a Constitution of *Martian*; or in the Diocese of *Thrace* for thirty years from the second Consulship of *Aelius* and that of *Sigisbaldus* in the Eastern; in that of *Egypt Pontus* and *Asia*, twenty six years or from the Consulship of *Cyrus*. These three Laws made up one Constitution directed to *Nicostratus* the *Praefectus Praetorio*. His Brother in the *Praefectship* of *Illyricum*, and something like in Name as well as Office, was this year *Callistratus*, to whom another Edict we find directed bearing date this very day, whereby is declared that Fathers marrying second Wives, shall not lose their usufructus of what belongs to their Sons by the first, as descending to them from their Mothers.

anhemius
swers the Pe-
tion of *Julia*
to the mar-
age of her
ced man.

49. *Anthemius* was busie this year in assisting the Design of *Leo* against *Genserich*; but he also employed his *Questor* in making Edicts. He was Petitioned by a certain Woman called *Julia*, in favour of a Marriage she had contracted with one who had been her Slave, but had been also made free for the eminency of his Manners, as she alleaged. Now, *Constantine* had made a constitution against women marrying their Slaves, and this she was afraid would take hold of her. In this case he thought fit to be kind to *Julia* and others in her condition, and yet to provide against such marriages as brought Infamy and other great Inconveniencies to women of free and oftentimes of noble Parentage. In honour of his second Consulship he declares all such marriages contracted by women with their *Liberti* or freed men to be good and valid till this present year. But severely prohibits them for the future, under pain of the marriages being utterly null and void, the parties undergoing loss of Estates and perpetual Deportation, besides that the Children born in such a State should be seized as Slaves by the Treasury: and as for the Conjunction of women with Slaves, as also of men with *Liberta* and the Slaves, he leaves them to the said Constitution of *Constantine* and the Law as it stood in force before his time. This is directed to *Lupercianus* on the nineteenth of February, who shortly after certified him that he had received from the Emperor *Leo* certain Laws to obtain his Confirmation in his World, as he words it. By au

Seet. 7. Edict bearing date on the nineteenth of April, he impowers him to publish " them for Laws accordingly ; which was done the very same day.

A. D.

468.

Actum sub dat
eodem.

Leo the Empe-
ror of the East
directs an E-
dict to *Lupre-
cianus* in the
West.

To what pur-
pose.

50. And the same day he published another Edict, which is singular, the like not being to be found in any Code that we can remember. It's a Constitution of *Leo* the Eastern Emperor, and yet directed to *Lupercianus* and said to be dated at *Rome*. Now that the Eastern Emperor should direct an Edict to a Western *Præfect*, or the Emperor of the West to a *Præfect* of the Eastern Empire is not to be found, except it be in the Minority of *Valentinian* the second. But amongst other things said by way of Preface, he declares that he to whom Providence had committed the Regiment of the whole World, would have Law and Equity observed. That his Son *Anthemius*, (to him he gives the Attributes of *Pius* and *Triumphator semper Augustus*) though the Divine Majesty and his Creation had committed full power of Empire, to him, yet out of his prudent and cautious equity in which he excelled, thought him (*Leo*) to be consulted by his Sacred Addressees, affirming that in the parts of *Italy* many Controversies were risen about Donations of other mens Estates, made by Princes contrary to the prudence of the Laws. A Suit betwixt one *Domnina* and *Fortunatus*, gave the occasion to this determination, and before the Judges a constitution out of the Code of *Theodosius* was alleged, whereby *Constantine* ordained that though one should prove the thing given away by the Prince to be his own, yet such Plaintiff should not receive it back, but be considered some other way by the Emperor. This he thinks fit so to limit and restrain, as to declare valid the gift of the Prince, yet to leave all at liberty by due course of Law to recover their own. " Therefore he decrees that the thing in controversy called *Cesiana Massa* be re- " stored to *Domnina*: for, saith he, nothing is so advantageous to the Imperial Ma- " jesty, in which equity ought to inhere, and justice to be vigorous, as to reserve " all common Right to Subjects, and nothing is more lawful or permitted to good " Princes, than to private men, who ought to pretend to such liberty as is war- " ranted by the Laws and Equity, that no man may take pleasure in another mans " Goods or things unlawful, and no man may lament that he is deprived of his " own Estate.

Therein takes
upon him.

51. This singular Edict is the last of the three that bears the name of *Anthemius* and the last of all these Novels that are bound up with the Code of *Theodosius*. It seems misplaced; for the second of *Anthemius* confirms it as well as the other Laws of *Leo*. But *Leo* takes a little upon him in the Application of the Duty of Emperors and the Justice and Equity which ought to be inherent in Imperial Power. He knew probably the Circumstances of his own time, but not those of his Predecessor; and he intended a mitigation indeed of what concerned *Bona Caduca*; whereas the Constitution of *Constantine* he mentions had respect to other things. That Constitution is the third *De Bonis vacantibus* in the Code of *Theodosius*, and dated at *Rome* in the Palace at such time as the Difference betwixt him and the Senate, fell out about Religion, and his parting thence and founding *Constantinople*. He had confiscated the Lands belonging to the Pagan Temples, and as conveniency inclined, had assigned some of them to private Persons, and as might conduce to the advancement of Christian Religion; chiefly to the Bishop and Church of *Rome*. These Assignments being made, he found it not fit to revoke them, though possibly some private Persons might receive some lesser Inconvenience, but rather chose to make them satisfaction some other way. To be sure it was no way agreeable in other things and at other times, to his humour, to suffer any man to go away with the loss, but on the contrary he favoured such as had lost their Estates, and as *Sozomen* writes, made some other way amends to the Donees and Purchasers after restitution to the right Owners. But in some extraordinary cases it hath been the Rule, that rather a mischief should fall to some particular men, than a great inconvenience to the publick. Private Persons have been constrained to part with their Grounds for rebuilding and conveniences of a City; and what reason to the contrary, when some other way satisfaction is made?

Cod. Th. lib. 10
tit. 8.Vide comment
Gothofred.

Lib. 1. c. 3.

Zeno and Mar-
cian Consuls.

52. The year CCCCLXIX had for Consuls *Zeno* the Son-in-law of *Leo* and *Marcian*. *Leo* sufficiently understood the designs of his late *Arian* Officers and how by their Intelligence with *Genferich* so hopeful an Expedition had miscarried. Yet he concealed his Indignation, and to such a degree as to make great Courtship to *Aspar* whom he knew to be the grand supporter of the Faction. He proceeded so far in the art of Diffimulation, which it seems he saw very neces-

A. D.

469

Zénone &
Martiano
Coss.

fary

ect. 7. sary as to promote the Son of *Aspar* to be *Cesar* which some say was agreed on when *Aspar* promoted him to be Emperor. Some write that this was *Ardaburius* the *Patritian* by Dignity. Others that it was another Son whose name was *Patritius* or *Patritiolus*, and that to him he betrothed his Daughter. It's reported that *Aspar* was so earnest to have the Emperor perform his promise, that he took hold of his Robe and told him, that *It was not lawful for one to lye that wore that Purple*, to which *Leo* answered that *It became an Emperor also to yield to no man; to be subject to none, especially when to be so would be to the detriment of the State*. How bold soever *Aspar* was at this time out of greediness after having the Sovereign Power in his Family, he is also reported to have renounced the *Arian* Heresie as well as did his Son who was promoted to be *Cesar*; for such commotions happened at *Constantinople* upon the Nomination of an *Arian* to that Dignity, that he was forced if not to renounce, to dissemble that Opinion.

53. *Leo* began this year by an Edict gratefull to such as were of a quiet Disposition and avers to Law Suites. For whereas formerly in Stipulations or Contracts made by Word of mouth it was necessary to use certain solemn words, Phrases or forms of Speech, he now ordained that all Stipulations, though not made with solemn or direct words but in any whatsoever, if it was with the consent of the Contracters and they were familiar to the Laws, should be of force and valid. From some eminent occasion he was concerned towards the Month of *July* to take notice how women made no conscience of promising Marriage, and afterwards flying back disappointed their Suitors, to their great detriment often as well as vexation. By a constitution directed to *Erythius* the *Præfect* a little to discourage them he ordained, That any woman who upon such promise of contract received Arræ or Presents, should if she flew back, and if of Age restore double, if under Age single, or just so much as she had received, as the Law, also in such cases, was against a man if he stood not to his promise. This bears Date on the Kalends or fifth of *July* of this year, and is directed to *Erythius*; and so are more Edicts concerning this subject of Marriage which having no Date at all, probably with this made up one and the same Constitution. For urgent reasons the Law prohibited Tutors and Curators their marrying their Pupils or Minors or giving them in Marriage to their Sons. But this though founded upon so good reason as is obvious enough without declaring, gave occasion to ill founded scruples against Deputy-Tutors, or such as but transacted the businesses of such young women, as if they were to be apprehended as dangerous, as the other. This caused *Leo* to declare that the Prohibition belonging to Tutors and Curators should not extend to them, for else by degrees all that were but any way obnoxious to give Account, should be prohibited from marrying to himself or his son, her to whom he was, though little, ingaged. He further wrote to the said *Erythius* to prevent the injuring of Children by Father or Mother through their betaking themselves to second, or other Marriages. It was further observed that because women out of favour to their Sexes were indulged and restored in *integrum* if by reason of ignorance of the Law (which otherwise did not excuse) they were overreached in Contracts concerning their Inheritance or Estates, they thence took occasion to retract all Contracts whatsoever in such things as they omitted or were ignorant of. To prevent this he commanded the same *Erythius* that the former Laws should be strictly observed, which relieved them only in case they did any thing through ignorance of the Law when they were under Age, or not five and twenty.

54. We are come to the CCCCLXX Year of our Lord, which had for Consuls *Severus* and *Fordanus*. Some Copies have *Severianus*; and of each Name two very Eminent Men lived in the East at this time. Now did *Leo* put in Execution what he designed against *Aspar*, causing him and his two Sons *Ardaburius* and *Patritius* to be killed by the hands of the Eunuches in the Palace. *Nicephorus* relates this story told by *Marcellinus* with this circumstance, that the Citizens of *Constantinople* bore *Aspar* and his Sons very evil will upon report that they entertained designs against the Emperor, but were enraged above measure when they saw an *Arian* created *Cesar*, being shortly to succeed an old Man in the Imperial Seat. They fell out into all opprobrious language in the Cirque and treated them with words in such a manner as shewed that blows would follow in a little time, of which they being sensible fled to *Chalcedon* and took Sanctuary in the Church of *Euphemia* the Martyr, all the Army following after. The Emperor sent the Patriarch promising them security if they would come forth, but they refused to comply.

" makes
veral Laws
declaring to
marriage.

The unreasonableness of women restrained in claiming privileges.

Aspar and his sons killed.

*Vide Leonem
u. A. 5. quæ. 1.
tit. 1. 1. 1.
M. 1. 1.*

*in J. 1. 1.
tit. 1. 1. 1.
Sponsus & sponsa
d. 1. 1. 1. 1.
promissio, Fidei-
bus & filijs
d. 1. 1. 1. 1.
Fides & fiam.
L. 1. 1. 1. 1.
concordia
et concordia
S. 1. 1. 1. 1.
C. 1. 1. 1. 1.
tit. 1. 1.*

*L. 1. 1. 1. 1.
tit. 1. 1. 1. 1.
C. 1. 1. 1. 1.
tit. 1. 1.*

*L. 1. 1. 1. 1.
tit. 1. 1. 1. 1.
C. 1. 1. 1. 1.
tit. 1. 1.*

*L. 1. 1. 1. 1.
tit. 1. 1. 1. 1.
C. 1. 1. 1. 1.
tit. 1. 1.*

*L. ult. de iuris
et facti igno-
rantia Cod. J. 1. 1.
tit. 1. 1.*

A. D.

470.

*Severo &
Fordano. Cons.*

Sect. 7.

ply except he himself would come to them. *Leo* went and by indirect means got them out. He took them to his Table, and promised them to forget all Injuries, and other matters: but he gave orders to *Zeno* an Isaurian whom he esteemed faithful to him, to cut off their Heads as they should come to make use of the Baths of the Palace. When they came, he first cut off the Head of *Ardaburius*. At the sight *Aspar* grieved, but cried out; That being old, and now gray-headed, he suffered as he had deserved, who had boasted in vain and would never obey his Admonition. For he had often told him that they should devour *Leo* before he could make a meal of them. Having said this, he also was slain. But his Son *Patritius* who was divorced from *Ariadna* the Emperors Daughter, was sent into Banishment, and she was given in Mariage to *Zeno* who had thus cut off the Conspirators. Thus much *Nicephorus*, from whom other Writers dissent as to *Patritius*, relating all the Sons of *Aspar* to have been slain. If *Zeno* was the man and *Ariadna* was formerly contracted to *Patritius*, *Baronius* rightly inferreth that the marriage of him with *Ariadna* fell not out till this year and that such as assigned it to a more early time, were mistaken.

A. D.
470.

55. For the Year CCCCLXXI *Leo Augustus* (who from the killing of *Aspar* and his Sons got the Nick-name of *Maces*) took the Consular Title the fourth time, and had *Probianus* for his Colleague. He was now well at ease, being rid of his ambitious Competitors; but so was not his Brother *Anthemius* who fared the worse for his good Fortune. The two Emperors excepted, the greatest men in these times were of the *Arian* persuasion, and such were they who preferred them to their Sovereign Titles, for little more than Titles they really enjoyed while these *Arian* Ministers bore all the sway. *Ricimer* a Goth and one of that Opinion, was displeased at the death of his Friends and Countreymen at *Constantinople*, and being angry with *Leo* began to be dissatisfied with him whom he had recommended to the Western Empire, though his Father-in-law. And what could not he promise himself, who upon the account of his Religion and Original had two great Potentates his Friends, viz. *Evarich* King of the *Goths* in *Spain* and *Gall*, and *Genferich* the *Vandal* the Terror both of East and West, two great Persecutors upon account of that Heresie? He offered several Affronts to *Anthemius*, who taking it in disdain to be so used, and knowing sufficiently his Insolence, would not receive them without expressing his Resentment, and those Coles of Dissention being blown by the familiar Friends of both, it arose to that height that the Plots and Designs of *Ricimer* being discovered, he was glad to provide for himself by flight, and got him to *Milan*. The Nobility of those parts were very much concerned at this Breach as apprehending new mischiefs into which *Italy* would be plunged, and used all the means they could to persuade him to reconcile himself to the Emperor, and recommended to him as a Person most fit to be sent on that Errand, *Epiphanius* Bishop of *Ticinum*, or *Pavia*, a Person of very great eminency for his sanctity and abilities. *Ricimer* willingly enough complied with their Desires, as the best means to conceal his farther designed Treachery; and *Epiphanius* was sent upon the Errand. *Anthemius* was not forward to entertain him under that Character, professing *Ricimer* was a man not to be trusted, because of his Ambition, and fickle and treacherous Humour. But its said the religious discourse of the Bishop joyned with the reverence due to his Person overcame him, and he durst not deny that Peace, which he concluded in his own thoughts would not be lasting. However a Peace, or rather a counterfeit Reconciliation was made.

A. D.
471.
*Leone A. &
Probianus
Coss.**Acta Epiphan
apud Baron ad
h. A.**Ricimer* breaks
out into Re-
bellion.

56. The next year that followed, or the CCCCLXXII of our Saviour had *Festus* Consul for the West, and *Marcian* for the East. *Ricimer* for some time continued a Correspondence with the Emperor, but nourishing still his restless and ambitious Thoughts, and presuming he should be able either by force or cunning to destroy him, at length he broke out into open Rebellion, and with a great Force of men went to *Rome*, and in order to a Siege incamped at the Bridge of *Anienis*. This procured no small disturbance in the City, the people, though harrassed with Tumults and Dissentions, siding with each party as inclined. But of whatsoever party they were, they were all oppressed with Famine, the Siege being drawn out in length, and a Plague the usual Companion of both, raged amongst them. The only hope they had was in the *Goths* inhabiting *Gall* whom they long expected to relieve them. And they wanted not will to do it, for *Bilimer* was sent with a good Army to raise the Siege, but when he attempted it, *Ricimer* turned head, gave him Battel, defeated, and slew him near the Bridge

A. D.
472.
*Festus &
Marciano
Coss.**Vide Sigon
ad h. A.*

of

Sect. 7.

breaks into
love and mur-
der's Anthe-
mian.Olybrius Em-
peror for a
while,

of *Adrian*. Upon this, more elevated and resolute he reinforced his Siege, and on the eleventh of *July* broke into the City, which he treated as *Alarich* and *Genferich* had done before him. No regard being had of *Anthemius* either as Emperor or Father-in-Law he put him to death; and permitted his Soldiers to plunder the Citizens, sparing only the two Regions where he had his quarter. This being done he promoted *Olybrius*, who not long since was come from *Constantinople*, to be Emperor, and not long after, *Cassiodorus* saith forty days, being seized by a Disease, in great pains of his Body if not of his mind, he went to give an Account of his Actions in another world on the eighteenth of the same month, having domineered like another *Stilicho* from the death of *Valentinian*. Neither did his lately promoted Emperor long enjoy his Purple, for some say he followed after on the three and twentieth of *October*, though others refer his death to the following year, and with better reason, *Cassiodorus* saying that he died in his seventh month. There is little said of what he did the small time he had the Power, but that to be grateful to *Ricimer* he made *Gundibarius* his Nephew a Patritian in his place.

A. D.

473.

57. The year CCCCLXXIII had *Leo Augustus* Consul the fifth time and him alone, they that were most concerned in the West having something else to think of than of making Consuls. *Leo* having notice of the late Revolutions at *Rome* resented them as was convenient he should, especially the death of *Anthemius* and thinking whom he might send to succeed him in the West, made choice of *Fulius Nepos* the Son of *Nepotianus*, to whom he married his Niece and designed him *Caesar*. But for all this, four months passed over and there was no face of Majesty, none that wore the Purple at *Rome*, and this encouraged *Gundibarius* to take up the trade of *Ricimer* his Grandfather. On the fifth of *March* he procured the Soldiers to nominate Emperor *Glycerius*, who bore the Office of *Comes Domesticorum*, and him they adorned with the Imperial Ensigns at *Ravenna*. Thus after the death of *Anthemius* followed two, whom we may rather call Usurpers than Emperors; who had not any consent of *Leo*, nor were created after due manner, and therefore no account was had of them by those Princes that followed. Of such Tragedies as had been thus acted in *Italy*, *Genferich* the next Neighbour could not but be Spectator. And his Ambition excited him, to make such use of them as his Interest with the Arian Princes of this time could procure. He not only did what mischief he could with his own Power in *Africk*; but he stirred up the *Ostrogoths* to invade both the Eastern and Western Empire, alluring them by the greatness of the Booty. And to the Booty at this time they had great appetite, if what their Countryman writes be true, that the prey they were wont to make of the neighbour Nations failing, their Meat and Clothes likewise failed; for they had been maintained by War, and now peace became very irksome to them.

A. D.

473.

Leone A.
Cons.Jornandes de
rebus Geticis
c. 56.And *Glycerius*.The *Ostrogoths*
make Incur-
sions into both
Western and
Eastern Em-
pire.

58. With open mouths they all betook themselves to *Theodimir* their King, and desired to be led out to what quarter soever he pleased. He sent for his Brother and casting lots persuaded him to invade *Italy* where *Glycerius* now Reigned, while he in the mean time should set with a stronger Army upon the stronger or Eastern Empire. The thing was done, *Widimir* invaded *Italy*; but presently after died and left *Widimir* his Son for his Successor. Him did *Glycerius* labour with gentle language to mollify, and by presents moved him to quit *Italy* and go into *Gall* where he told him his own kinsman then Reigned. He accepted of his Presents and went as he directed him into *Gall*, where he joyned with the *Visigoths* his Kinsmen, and made up one Body and People with them, who had dominion both in that Country and in *Spain*. *Theodimir* the elder Brother with his Forces passed the River *Sans*, threatening to make War upon the *Sarmatians* and such others as should endeavour to oppose him, which none did concluding he would be too strong for them. Perceiving all thing to succeed as he wished, he set upon *Naissus* the first City of *Illyricum*; and being Master of it joyned with his Son *Theodorich*, and by his Officers took in the City *Ulpiana*, and several places of the Country before this thought to be inaccessible. For they subdued in the course of this War *Heraclea* and *Larissa* Cities of *Thessaly*, after having got much Booty. *Theodimir* taking notice both of his own and his Sons felicity, resolved to improve it, and from *Naissus* went to *Thessalonica* whither the Emperor had ordered *Clarissus* a Patritian with an Army. He perceiving the Trenches to be opened sent to *Theodimir*, and by gifts persuaded him to quit the City, and an Agreement was made whereby were delivered up to the *Goths* to inhabit *Ceropelle*, *Europa*;

Places assigned
them to inha-
bit.

Sect. 7. *Europa, Mediana, Petina, Bercum*, and another place called *Sium*, where with their King they placed themselves in quiet. And not long after *Theodemir* was seized with a mortal distemper, and calling to him the *Goths* in the City *Cerras*, nominated his Son *Theoderich* his Successor, and then died. This is that *Theoderich* of whom we are largely to write hereafter. We must add as to matters of the East this Year, that (according to the Computation of *Marcellinus* and *Cassiodorus*) *Leo* the Son of *Zeno* and *Ariadna* was born, and presently by his Grandfather the Emperor made *Augustus*. But as some write he scarcely lived ten Months after his Imperial Birth; then dying an Infant, and neither being sensible of what he got or lost. Yet others would have him not an Infant, but a Youth brought up in a vicious course of Life. Which could not be, for had he been born that very Year that his Father and Mother were married, he could not at this time have exceeded three years, according to what hath been formerly said; and *Baronius* also now observes.

A. D.
468.

Leo dies.

Good Laws
made by him.

59. But the following Year, or the CCCCLXXIII of our Lord, was opened with the Consulship of this *Leo Junior*, and notable upon this account as well as for his own Death and that of his Grandfather, who now ended his Life after he had reigned seventeen years and six moneths. He is generally commended for his wisdom and moderation in Government, and reckoned amongst good Princes. Some blame him very much for this, that he was not sufficiently cautious whom he preferred, as *Basiliscus* and *Zeno*, both who proved great maintainers of the *Arian* Heresy, and procured disturbances in the Empire: neither did he take off *Basiliscus*, as with good reason he might have done after his Treachery, but suffered him to live and entertain farther ambitious designs for obtaining the sovereign Power. That silly opinion that the best Laws are made by the worst Princes, was confuted by him as well as others, for many excellent ones he enacted both of *Ecclesiastical* and *Civil* concernment. Some of both sorts we find without date, and cannot so well assign them to any particular year. *Constantine* had formerly made it Capital to make any Eunuches within the Roman Pale. But this Law became so neglected that *Leo* by a new Constitution directed to *Vivian* the P. P. forbade any such Castrated Persons to be sold, by subjecting every *Tabellio* that drew the writings of such Sale to punishment, as also him that should require the eighth penny according to the Custom; for there were certain Publicans, who from gathering this eighth penny from the sale of Eunuches, had the name of *Ostuaris*. But as for Eunuches made in barbarous Nations without the Roman Pale, those he permits to be sold. Indeed the practice of this Age was so degenerate, as usually before Revolutions, that, as *Sidonius Apollinaris* jestingly and yet too near to Truth, wrote to his friend *Candidianus* concerning the Marishes of *Padus* near *Ravenna*, the course of all things seemed perverted, to sober men. The Walls, saith he, fall, and the Waters stand; Towers float, and Ships lye fast; the Sick walk, and Physicians lye along: the Baines freeze, and Houses burn: the living are dry, and the dead swim: Theives are vigilant, and those in Power sleep: Clerks turn Usurers; *Syrians* sing: Marchants turn Soldiers, Soldiers traffique as Merchants: old men play at Ball; young men at Dice: Eunuches follow Arms, and the Confederates their Books.

A. D.
474.
Leone Junior
ore Conf.Vide. tit. 42.
de Eunuchis
Cod. Just. lib. 1.

Lib. 1. ep. 8.

He forbade
Soldiers traf-
fick.

60. Though these Incongruities might chiefly be charged upon the People of the western Provinces who were now ripe for Ruine, yet as Corruptions will ever be creeping into all States and Empires, *Leo* took notice particularly of one of those Indecencies mentioned by *Sidonius*, and that was the trafficking of military Men. He was satisfied that as by a course of Trade they neglected their own Employment, and thereby subjected the Provinces unto Danger, so in their way of Traffick they oppressed too often their fellow Subjects, making use of their military Function to enforce it, by terrifying their Neighbours, and frightening them into unequal terms, by the awe of their Girdles. For these reasons he gave in Command to *Aspar* when *Magister Militum*, that Soldiers should not as much as hire any thing that belonged to other persons, neither be Procurators or Managers; Ingage themselves for any, or imploy others in those Affairs. He requires that they busy themselves with Arms, not with private matters, and that they constantly attend their Colours, and preserve the Commonwealth which maintains them from all necessity of Wars. By the many warnings he had from *Genserich* and others to strengthen himself against Invasions, he was so careful to have all things necessary for War, that in a publick

L. 2. de locato &
conducto Cod.
Just. lib. 1. tit.
65.

Edict

Edict. 7. • Edict he declared that no Persons of what Dignity soever, should be excused from building or repairing of Walls, from furnishing of Wheat and other *Species* " as the *Præfectus Prætorio* should think convenient. He was negligent as to secu- " ring himself from *Basiliscus* and his ambitious Practices, but if we may judge from another Law, he was jealous that some of his Subjects coveted his place, and that from the Splendor of their Clothes and Furniture. As *Valens* (as jealous as any) had formerly forbidden to Subjects the use of Cloths wrought with Gold, he forbids the putting of Pearl, Emrods or Jacinth upon Bridles Saddles or Belts, permitting them to be adorned with other Gemms: But all sorts of Gemmes he forbids to be worn in Trappings; under pain of fifty pounds of Gold to be forfeited by him that shall transgress in either kind. He further declares that no private Person except in the ornament of Matrons or the wear of Rings either by men or women, shall make any thing of Gold or Gemmes which belongeth to the Clothing or Ornaments of the Emperor. Neither shall they do this under pretence that they make those things on purpose to present them to the Prince, for he declares that he desires no such Presents, neither that Royal Ornaments shall be presented by private Persons. As a reward for any such things to be presented to him, he establishes such an one as would little gratifie the Giver, viz. no less than a forfeiture of an hundred Pounds of Gold, and of life it self to the Bargain. For as much he saith that his Royal Ornaments ought to be made by his *Palatine* Artificers within his own Court, and not up and down in private Houses or Shops. Therefore he decrees with the greatest severity, that what is sacred and agreeable in his wearing and Ornament no private Person shall rashly dare to make, under pain of incurring the Mult now mentioned.

ie too rich
nature of
vate Per-
is.

favoured
obility.

'as a great
tend to Li-
erty.

61. That he was careful to preserve a regard to Nobility and Dignities he shewed in that he commanded that, If any publick *Baker* (or one of the *Mancipes*) should by ambitious practices, favour or money, obtain the Dignity and Office of *Comes Horreorum*, he should be devested of his Dignity, fine in twenty pounds of Gold, and be returned to his former Employment, without any special Indulgence to be obtained. But to liberty he was a great friend, which to obtain he ordained an extraordinary and singular matter. Amongst the Presents lately mentioned and forbidden to be made to him, it seems that Eunuchs were not to be reckoned, but that sometimes such were presented to serve him in his Bed Chamber. As he or his Colleague *Anthemius* had privileged their Bed-Chamber-men from being convented before any other Judge than the *Magister Officiorum*, he declared that all that were already admitted into his Chamber, whether given by the liberality of any person, or upon any other account, and to be admitted for the time to come, if Slaves should *ipso facto*, without intervention of Writings or Acts, obtain Liberty and Ingenuity; nay this should extend unto the dead, so far as they could be concerned. He gives this reason, that it was a seemly privilege of Imperial Majesty, not to be served by Slaves, but persons of free condition. He grants them therefore power to make Testaments as well as other men. But in case they die without lawful Heirs, he declares that their Estates shall come to his Treasury. This Immunity he gives in case any Persons do voluntarily present him with their Eunuches. But if it be found that any thrust themselves into his Service, without the consent of their Lords, he allows the owners to recover them together with their *Peculium*. Provided they lay their claim within five years, which prescription of time shall bar them. And all this he extends to Women as well as men, which by their Lords were or should be given into his Bed Chamber.

ind to those
at served in
Scrinia.

62. He was as kind to those that served in his *Scrinia*, whom he declared free from sordid Employments, and Tolls according as the Law formerly had provided for them. Now these Tolls of vendible things rose and fell according to the pleasure of Princes; of old the twenty fifth or fiftieth part was taken of the price of Slaves, of other things the hundredth, which *Tiberius* reduced to the two hundred penny, and *Caligula* brought it down to the three hundred so far as the Provinces of *Italy* were concerned. More than this he declared

A. D.

474.

L. ult. de quibus munitionibus, etc. Cod. Just. lib. 10. tit. 48.

L. un. Nulli licet in frons, etc. Cod. Just. lib. 11. tit. 11.

L. un. de Pisto-rib. Cod. Just. lib. 11. tit. 15.

L. l. 3. 4. de Præpositis sacri cubiculi. Cod. Just. lib. 12. tit. 5.

L. l. 9. 10. De Proximis sacrorum (cranium) etc. Cod. Just. lib. 12. tit. 19.

Se&t. 7. them free from publick and civil Services, as also from the *Metatus*. And he “ **A. D.**
thought fit to establish the Number of them; as in the *Scrinium Memoriae* sixty “ **47 3.**
two, in the *Scrinium Epistolarum* thirty four, and as many in the *Scrinium* “
Libellorum. In the *Scrinium Memoriae* he would have no fewer maintained “
than four *Antiquaries*, as they were called, or Copiers of Books, and no *Memo-* “
rialis to supply or execute two places. But he seems most concerned about “
military men, forbidding still by another Constitution directed to *Dioscorus* “
that they undertake any civil Employment. And that the Army may “
not be filled with unskilful men, or the Cities and Towns emptied upon this “
occasion, he forbids any *Curialis* or *Cohortalis* to betake himself to the *Armata* “
Militia. He was indulgent enough to his Servants and Ministers; but as
other Princes before and after him he found occasion enough in his Reign to
restrain their Extravagancies. One in his time was committed by the Gover-
nors of Provinces themselves, who though they had in the Cities of their ju-
risdiction Palaces, *Pratoria*, or publick Houses to dwell in, yet would get into
those of private Persons, whereby two mischiefs followed. For the Owners
might be outed of their Habitations or forced to unequal terms, and the publick
Houses were neglected and fell to decay. To prevent which, he gave in a Con-
stitution, express charge to the *Præfets* that such Governors should be constrain-
ed to inhabit the respective *Palaces* and *Pratoria*; and where, in the same City, “
there was both a *Palace* and a *Prætorium*; the former should be assigned to “
the Habitation of the *Præfident*, and the latter he employed as a *Granary* for re- “
ceiving or keeping of Corn or other *Species*, or to some publick and necessary “
use. If any Governor act contrary to this Law, he and his Office shall forfeit “
fifty Pounds of Gold to repair the Palace so neglected.

He commands
that Govern-
ours dwell
in the Palaces
or *Pratoria*.

L. 16. de Re mi-
litari Cod. Jus.
lib. 12. tit. 35.
L. 4. Qui mi-
litare possum.
C. Cod. Jus.
lib. 12. tit. 34.

L. ult. de offi-
Refloris Pro-
vinciæ Cod.
Jus. lib. 1.
tit. 11.

Zeno Empe-
ror.

63. *Leo* at his death is reported to have left his young Grand-Son *Leo* his
Heir and Successor, and *Zeno* only the Childs father, his Protector or Guardian.
But *Zeno* when the old man was gone, and he had the power in his own Hands,
would not be so put off. The Sovereign Power of an Emperor we know was
very great; they were loosed from Laws that bound other Persons. They could
adopt those that were elder than themselves. Such Acts of State as passed in
their Minority their *Quæstors* Hands, were as we have said, authentick, as now
in our present Age, Laws enacted in the Minority of Princes from their autho-
rity receive their force, though managed by their Protectors or Regents of the
Kingdom. By virtue of this fulness of power the *Imperial* Authority flowing
from an Infant, but managed by *Zeno*, invested *Zeno* it seems, with the Impe-
rial Dignity, and as if the Child had done his part, now he passed off the Stage,
for he survived not long after. How long it was we know not, but we will
have recourse to the Laws, and see what from the Dates of them can be Col-
lected. Its only thus much, that he was alive, and his Father had the Title of
Augustus on the two and twentieth day of *April* of this year. For in the Code
there's a Constitution bearing both their Names, which declares that when any
doubts arise concerning new Laws, which is not approved by old custom, in
such case the Judge must suggest it to the Prince and receive his determina-
tion. It further appears that on the sixteenth of *March*, *Zeno* had the Imperial
Title, by a Law of that Date inscribed to *Fustinian* *Præfets* of *Constantinople*,
concerning the Privileges of the fifteen Advocates in his Court, that should en-
joy the same with the Advocates of the *Fiscus*, and their Children, and which the
sixty four in the Court of the *Præfets* *Prætorio* enjoyed. There are five other
Laws extant which bear both their Names, but they generally tend to the esta-
blishment of the jurisdiction of the *Magister Officiorum* over those employed in
the Palace, of which we have already spoken enough.

Necessaria est
suggeritio judi-
cantis, C. l. 1.
de legib Cod.
Jus. lib. 1. tit.
14. Nat. 10. c.
Maii. Lenn.
jun. A. Conj.

L. 16. de Ad-
catis diversis
judicior. Cod.
Jus. lib. 2. tit.
3.

Very debauch-
ed.

64. Not long after the Date of the former Law we may suppose the Infant
Leo passed to the place of Innocents; but whether sent by the violent hand of
his Father or no we cannot tell. Yet some, as *Paulus Diaconus*, reported it, and
others tell another story, as if some other should be killed for him and he be
sent away and educated privately, and should have lived till the time of *Fustinian*.
Eugarius tells us that *Zeno* after the death of *Leo*, having by the assistance of
Berina the Empress obtained the Purple, and after that of his son the sole Title
and

L. 1. c. 17.
lib. 3. c. 1

act. 7. and administration, as if he had been perswaded that he could not enjoy the Dominion of the whole World, except he violently pursued all sorts of pleasures which occurred, did at his first beginning so give up himself to all allurements of Vice, that he refrained from no filthy or flagitious Act, but so wallowed in his filthiness, as thinking it the humour of a base and low Spirit to commit such things in darkness or an hidden manner, but Royal and worthy of an Emperor to do it in the Eyes of all men. In which practice saith our Writer he was of a perverse and absolutely servile Judgment. For a Prince is not to be valued because he commands other Persons, but for this that he can so govern and moderate himself, that he suffer no absurd sort of pleasure to creep into his mind, but keep himself so impregnable as to Intemperance, that his life may be the Image of Virtue, by which his Subjects may be instructed to imitation. But he exposed himself to the temptations of Vice, and by degrees was reduced into so filthy servitude, that thence he could not by any means be redeemed. After some other discourse he adds that his Subjects, as well those that inhabited the East as the West were grievously harraled. For the *Barbarians* called *Scenite* overran all places; and a multitude of *Hunus*, of old called *Massagetes*, made an Incurfion into *Thrace*, nay passed *Danubius* without the controul of any.

A. D.
474.

Julius Nepos
Emperor of
the West.

65. But, while these things happened, *Julius Nepos* the Sisters Son of *Marcellinus* once a *Patritian*, who had been by *Leo* as we said, designed Emperor of the West, hearing that *Glycerius* had seized the Purple was much concerned; and resolving to disturb him in his Seat, got together a power of men in the Eastern Parts, and obtaining ships of the Government, put them on Board, and landed them near to *Rome*, and that with such success, that *Glycerius* out of fear, as utterly unprovided, flying to a place called *Portus*, as some write, he then besieged him and forcing him to surrender himself, he divested him of the Imperial Ensigns, which he put on himself, on the four and twentieth of *June*. *Sigonius* takes this *Portus* for a Town near to *Rome*; but *Fornandes* writing how *Nepos* deposed *Glycerius*, saith he ordained him a Bishop, in the Port or Haven of *Rome*. The Bishoprick was that of *Salona* in *Dalmatia*, and probable it is that upon notice of the Arrival and power of *Nepos*, *Glycerius* submitted and the Accord was made at *Hestia*, or thereabouts where he landed. *Fornandes* further writes that *Eurich* King of the *Goths* in *Gall* encouraged by these varieties and Alterations, seized on the City *Arverna*, in which then resided as Governor *Decius* a most noble *Roman* Senator, and the Son of *Avitus* late Emperor. But for *Decius* is to be read *Ecdicius*, who was Brother-in-law to *Sidonius Apollinaris*, to whom are extant several of his Epistles, from which it will appear what the State of the *Arverni* was at this time in reference to the *Goths*, who indeed did exceedingly distress them, though they took not the City this year. But of these matters we treat particularly in the History of the Kingdom of the *Goths* in *Gall* and *Spain*.

66. The Year of our Lord CCCCLXXV had only *Zeno* the Emperor Consul in the East; they of the West having other things to think of, where the Government and Imperial Dignity, like things contemptible, were tossed from hand to hand without any reverence or respect; the fate of the Empire now pressing sore upon it. We have seen how for a long time the Sovereign Dignity had been in a manner in servitude. How they that bore it were advanced by others who expected to be obeyed as Patrons by those their Clients, or rather their Players whom they had adorned with Purple to act the Part of their Fools, rather than any thing else; and when they displeased them they would drive them off the Stage again. That those Brokers of Majesty of late had been Officers of the Barbarous Nations, we have abundantly seen; as also that though they made this Majesty so mean and contemptible in the Eyes of all judicious Persons (however dear the purchasers paid for it) yet they had such reverence for the antient glory of it, or were so struck with an awe of the *Roman* Name, that they adventured not to take it themselves, neither transferred it into their own families; if will was present power and success being wanting, as to *Stilicho* when he sought to advance his Son *Eucherius*. But now the fatal time of the

A. D.
475.
Zenone A.
Consul.

Sect. 7. the Empire being come, it had the fortune to die by degrees, not in the most sudden and violent manner. Being to fall, it was to fall from one step to another, and so to the ground, not from the highest pitch, but from a meaner place, that it might be with lesser noise and pain. *Ecdicius* stoutly defending, or, as others say, having yielded up the City of the *Arverni*, was sent for by *Nepos* and honoured with the Dignity of *Patritian*. Into his place and power in *Gall*, the Emperor thought fit to promote *Orestes*, whom he had advanced to the Dignity of *Magister Militum*, which he added to that of *Patritian*. A. D. 475.

Augustus Emperor in the West.

67. This *Orestes*, its said, was a *Goth*, who by his military Actions had got reputation, and commanded the Auxiliaries of that Nation, in *Italy*. He being ordered for *Gall*, to give restraint to the ambitious practices of *Eurich*, when he had his Army now ready at his Devotion, and considered what advantage he might take at the weak condition of *Nepos*, whom he could easily suppress if he pleased, gave way to his Appetite, and coming from *Rome* to *Ravenna*, where the Emperor lay, easily spoiled him of the Imperial Ensignes, which he presumed to put upon his own Son, who by the Soldiers was admitted and owned for *Augustus*. And such he was before in Name, though out of prospect of the Thing his Father could scarcely be induced to give it him. He is generally called *Augustulus*, but his true name was *Momilius Augustus*, as *Baronius* from an antient Coin exemplified in his Annals shows, who takes it for granted that the People in a jeering manner called him *Augustulus*, being wont to give Nicknames as that of *Caligula*, and it might be the more readily received because *Augustus Augustus* did not so well sound as *Augustulus Augustus* with some variation. *Orestes* having lustily provided for his Family, the better to establish it, sent and entered into a League with *Genferich*, the greatest Potentate of his Neighbours, and in *Gall* took such order as he thought convenient for stopping the progress of *Eurich* against the *Arverni*; but all to little purpose, as we shall perceive in the following year, when we have seen how in this present, *Zeno* behaved himself in the East.

Zeno ordains that Governors stay in their Provinces some time after their administration expired.

68. However his practice might be irregular and suitable to that description of his Manners which *Evagrius* gives us; he took care that others should do their Duties, or be liable to Acculations and Punishment if they acted contrary. By the antient Law called *Lex Julia Repetundarum*, All Judges *Military* and *Civil* were obliged to continue in the places of their Administration, fifty days after the laying down of their Employments, and of this we have seen something also since enacted by imperial Authority. But the present behaviour of Governours of Provinces gave fresh occasion to the reinforcing and enlarging former Acts of State, which *Zeno* did on the eleventh of October, by a Constitution directed to *Sebastian* the *Præfectus Prætorio*. It ordains that none of the *Clarissimi*, the *Præsidents* of Provinces, *Consulares* or *Correctors*, or such as have obtained the Ensignes of greater Administration, that is to say the *Speṭabiles*, as *Proconsuls*, the *Præfectus Augustalis*, *Comes* of the *East*, *Vicar* of any Tract, any *Dux*, or *Comes* of any Limit whatsoever, or *Comes* of the Divine Houses, after he hath a Successor shall dare to stir out of the places he governed, before the number of fifty days be compleated. But during this space of time, the *Præsidents*, *Consulares* and *Correctors* shall continue, in the *Metropolis*, and those of the Degree of *Speṭabilis*, both *Military* and *Civil* in the more eminent Cities of the *Dioecesis* governed, and that publickly, not lurking within doors, not in religious places or Regions, or Houses of great men, but conversing openly in the most frequented places in the Eyes of them whom they have governed, that free Liberty may be afforded to all men to accuse them of Thefts or other Crimes, so as being defended from all Injuries by their Successors, and at the peril of their Office, as also of the *Curiales* and *Defensors* of the Cities, giving only a juratory caution, they be forth-coming to answer according to Law, to any one that shall accuse them. Neither shall the Revocatory Letters of the Prince himself excuse any from staying these fifty days, not a Commission for any other Government, not the Precept of the *Præfect*, or of any other Power, *Military* or *Civil*, for discharging any other trust, that so all Craft may be prevented, and what

“ Vel qui admi-
“ nistrationis m-
“ joris insulas
“ meruerint. At-
“ veri hic ut et
“ apud veteres, no-
“ est labore vel
“ pere, vel meriti
“ adquirere, sed
“ liquid adepti
“ esse et obtinui-
“ simpliciter. vid-
“ Notas in l. h. u-
“ ut omnes Judi-
“ ces & Cod. 7. ubi
“ lib. 1. tit. 49.

sect. 7. what the Emperor designs for the security of the Provinces, may take effect.

A. D.

475.

69. He that shall violate this Law, shall incur a Fine of fifty Pounds of Gold, and also his Successor, who shall not stop and keep in his Province such an Offendor, nor give speedy notice of his Flight. Now it is declared that none shall quit his Place or administration till his Successor be come to the Borders of the Province, And such Person as shall go away before the fifty days be expired, whereever he shall be discovered, though in *Constantinople*, by command of the Prefect without any delay, and by the care of the Governor of the Province wherein he shall be found, shall be conveyed back to continue six moneths for the discovery of his Faults. The Office of the Governor who neglects to stop him that will be gone (though with due respect) shall forfeit thirty Pounds of Gold. In case he be accused within fifty Days, and the Suit be begun, if there be not time remaining out of the fifty to end it, if he be only sued civilly, he shall have liberty to make his Proctor, and then he may depart; if Criminally, the Adversary inscribing his Name according to the custom of submitting to the *lex Talionis*, he shall be forced to continue in the place till the matter be decided. Moreover all Judges before whom such Controversies shall be decided civilly or criminally, whether by right of their Administration, or by Precept from the Prefect, must know, that if they do not end them within the space of twenty days from their commencing, for their neglect they shall forfeit ten pounds of Gold. And their decisions and final terminations shall be good.

he remarkable year.

70. At length we are arrived at the second Consulship of *Basiliscus*, and that of *Armatas*, at the year of our Lord CCCCLXXVI, a year of great Revolutions. For great that must be indeed which put an end to the dominion of that City, which had so long exercised it over so great a part of the Earth, as was called the *Roman World*; which put an end to her Dominion, brought her into Subjection to *Barbarians*, and made her truckle, in stead of being the Head of an Empire, among other Members of an *Italian Kingdom*. But so now it was. *Orestes* had already indeed brought the Dominion into a Barbarous Family; but still the Name of Empire continued; and as the name of his Emperor, so the Title, Jurisdiction, Authority, and all were owned to be *Roman*. But the Nobility that sided with *Nepos* were much dissatisfied, and they thought it a thing already as bad as could be, and if the Sovereignty must be placed in Barbarous Hands, then they would have a Man of their own choosing. At this time there was eminent in the Northern Parts, *Odoacer* King of the *Heruli*, *Thuringi* and *Scyri*, by original a *Rugian*, or inhabitant of an Island planted in the *Baltick* with *Germans*. He, as well as other Captains of the Barbarous Nations, had a mind to be trying his Fortune in *Italy*; and, as he desired he, was chosen to this conduct by the Nations who rising out of *Pannonia* and those Coasts, desired nothing more than to invade that harassed Country. They had got a taste of the goodness thereof, in the Invasions of *Atila*, and now sufficiently understood in how pityful a condition *Momilius Augustus*, that thing called an Emperor, was; how unable to withstand so great a shock as they were able to give him.

A. D.

475.

Basiliscus 2.
Armatas
Coff.

Rugus.

Odoacer King
of the *Heruli*
overcomes *O-*
restes.

71. Yet *Orestes* was ready and met him on the Borders of *Italy* with a very good Force as he could judge, but when he came to compare the strength of the Enemy with his own, he found himself inferior in numbers, and well he might be, for the *Goths* forsook him, because as some report, he had not divided to them the third part of the Lands, as he had engaged. He thought it best to retreat to *Pavia*, and there he fortified himself, having more reason to trust to the strength of the Walls, than Fidelity of his Soldiers. *Odoacer* was not far behind, but pursued and resolved to attack the City. And within a few days he became master of it, and of *Orestes* in it. The City was permitted to be plundered by the Soldiers, who made cruel havock of all things and Persons, while to find out Treasure they omitted none of the cruel means, and it was in a manner reduced to Ashes with its two Churches, *Epiphanius* its Bishop being roughly handled, though he prevailed

Paulus
Diaconus.



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